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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report on the situation of human rights in the Islamic Republic of Iran, prepared by the Special Representative of the Commission on Human Rights, Mr. Maurice Danby Copithorne, pursuant to Commission resolution 2001/17

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Executive summary

In the past year the demand by the Iranian people for reform has continued to grow despite a variety of obstacles. A cornerstone of this reform has been the gradual emergence of an intolerance of violations of human rights, both those recognized internationally and those articulated in the Iranian Constitution.

Among the obstacles has been the continuing, sweeping suppression of the mainly reformist press, including the imprisonment of journalists. This has had a serious negative impact on the promotion of human rights in the country.

The status of women has improved only in the sense that the demands of women and their supporters are now out in the open. Legislated discrimination remains in the statutes and regulations, and the current legislature's efforts to change this have been blocked by conservative political elites. Patriarchal attitudes remain very much in evidence in such areas as domestic violence and in the resistance to women achieving leadership roles in the public and private sectors.

Change in the legal system remains excruciatingly slow. The abuse of persons in pre-trial detention in matters deemed to be of a political nature appears still to be widespread. The accepted norms of fair trial are frequently ignored. Many of the punishments are gross violations of international human rights norms, including in particular the use of stoning.

The treatment of intellectuals and dissidents, particularly by the security forces and the Judiciary, reveals a fearful intolerance of alternative views. The treatment of many of these persons is in violation of the Iranian Constitution and of generally accepted international standards, and in some cases is little short of vicious.

There would appear to have been little change in the official and societal discrimination faced by the religious and ethnic minorities. From time to time this treatment escalates into active persecution of some groups. For their part, the minorities are becoming more outspoken in their demands for reform.

In the economic sphere, inflation, unemployment and poverty are among the causes of the deteriorating social and economic condition of many Iranians. Iranian leaders seem to acknowledge the gravity of the problem but have been slow to address it as an urgent matter in economic as well as social terms.

I. INTRODUCTION

1. As this is the Special Representative's last report, he may perhaps be allowed to be more expansive, particularly in this Introduction. Iran is a country in transition. That process is strongly contested by a minority group of elites who believe that the sanctities of the revolution, which by definition includes religious ones, are in danger. Those advocating change believe that a system of government must change with the times or perish, and that the status quo is simply untenable. This of course is a classic contest between those who believe in constancy, that is in absolutism of values, and those who believe that values have to reflect time and place.

2. In the case of Iran this contest is in part a struggle of philosophy and the role of religion in government. Increasing numbers of Iranian intellectuals, including clerics at all levels, are arguing with persistence for what amounts to a separation of religion and State as the only way in which constancy can be maintained in matters of religion and change can be effected in secular matters. In the words of one young activist, "we do not want democracy to put aside religion, but we do not want democracy to be trampled on by people in religious clothing".

3. The transition process in Iran, which the Special Representative believes is inevitable, is made painful and costly by the absence of a tradition of peaceful consensus building. In the words of one Iranian scholar, "the political culture of Iranians is still under the influence of beliefs and norms of the era of kings - despotism and tyranny".

4. Added to this is the use of violence among some elements of society and its social cost. The Special Representative has earlier expressed the view that violence in Iranian society is deeply debilitating (E/CN.4/2001/39 of 16 January 2001, paras. 122-127). He deplores the use of religion as a justification of otherwise immoral acts, acts which trample on the human rights of other human beings. The resort to violence, whatever the cause, is deeply destructive of law and order, of the credibility of governance and of a budding civil society.

5. The emergence of the latter in Iran is long overdue. In the Special Representative's view, it's emergence has been pushed aside by the ongoing political struggle, by the uncertainty over whether Iran is a theocracy or a republic, and by a populace that is as yet too immature politically to have set up effective institutions that are independent of the State. The debate over the enactment of political rights legislation reflects these constraints. The objective was to define political offences and to establish rules for the treatment of political offenders. The bill was rejected by the Guardian Council on the grounds it was in conflict with Islamic law and with the Constitution.

6. Moreover, in the view of a number of commentators inside and outside the country, Iran must move to a post-revolutionary era, that is, it must address its political and economic problems as basically internal ones. It must abandon the rhetoric of the revolution and, in particular, stop blaming outsiders for its woes. Twenty-two years later, revolutionary truths are simply not adequate tools to meet Iran's many problems, not least of which is the need for a tolerant, diverse society.

7. Meanwhile, the mood of people appears to be despondent. One senior figure has declared, "people feel frustrated and disillusioned". This certainly seems to have been reflected in the disturbances in August in Sabzevar and in October in Tehran. The treatment of the mainly youthful offenders will suggest whether lessons have been learned.

8. On the other hand, it is clear that the human rights discourse in Iran is changing. In the last six years it has certainly become much more open in the media, in the Majilis and on the campuses. It is now possible to talk openly of interests of the individual as distinct from those of the State and of the need for institutionalized, truly independent machinery to protect the individual's interests in the face of an oppressive government.

9. It seems very clear to the Special Representative that the principal obstacle to reform, to the introduction and nourishment of a culture of human rights, is the Judiciary, its patrons and its supporters. By any estimate, this is a very small group in a country of 65 million people. It is a group that bears a heavy responsibility for the ongoing violations of human rights in Iran.

II. FREEDOM OF EXPRESSION

10. The suppression of various types of expression continued in the period under review. More newspapers and journals were banned or temporarily suspended; more journalists were detained. One such case is that of Reza Alijani, former editor-in-chief of the now banned *Iran-e-Farda*, who was reportedly held for 200 days in solitary confinement and permitted only one visit from his wife. His lawyer had access neither to him nor his dossier. On 29 November, Siamak Pourzand, a 73-year-old journalist and intellectual, and currently manager of the Tehran Cultural Centre, disappeared outside his home and is widely presumed to be detained by one of the security agencies. According to one usually reliable source, an estimated 17 journalists were in prison as of 28 November 2001. In addition, the press reports that a number of student journalists were arrested for such offences as blasphemy.

11. The banning of the press and the imprisonment of journalists continues to be effected by the official press court, often presided over by the notorious Said Mortazari (see para. 40), by the Special Court for the Clergy and by regular civil courts. In short, since the spring of 2000, it has been open season on journalists.

12. With regard to other sources of information, it is reported that 1,000 satellite dishes were seized in October 2001. In the first instance of its kind for some years, a film director, Tahmineh Milani, was charged recently by the Tehran Revolutionary Court with promoting counter-revolutionary objectives, that is, in the words of an official press release, "she has abused the arts as a tool for actions which will suit the taste of counter-revolutionary groups". The film concerned apparently had all the necessary bureaucratic approvals and had been publicly released. It had been financed by the relatively conservative Islamic Propagation Office.

13. It will be evident that the freedom of expression atmosphere in Iran has not improved since the Special Representative last reported to the Commission. Indeed, in the present circumstances, it is perhaps surprising how fearless the public discourse generally is. The Special Representative deplores the present situation and urges the Government to take steps to restore freedom of expression in the country.

III. THE STATUS OF WOMEN

14. Over the years, the Special Representative has frequently expressed his concern over the status of women in Iran. He has called upon the Government to tackle both the discriminatory norms in Iranian law and the patriarchal attitudes in society, the latter expressed perhaps most obviously in violence against women and in the difficulty faced by women in entering the work force in positions commensurate with their training. There has been little evident progress in either of these areas in the last six years.

15. With regard to the former, the social and political pressure for change in the law has been steadily growing. Women themselves have become more outspoken, as have reformists among the clerics, including at least one Grand Ayatollah. More broadly, the populace has spoken through those it has elected to the Majilis. Resistance seems to rest largely with a relatively small group of non-elected, male, political elites. In the year under review, this group has, among other things, refused to approve any of the female candidates nominated to run in the presidential election and refused to approve draft legislation to raise the minimum age of marriage, notably that of girls, which remains at nine years of age, in clear violation of the Convention on the Rights of the Child. The Special Representative has characterized the situation with regard to the marriage of girl children as a black spot on the reputation of the Islamic Republic and has called upon all branches of the Government to work together to bring new legislation into effect as quickly as possible (see A/56/278 of 10 August 2001, para. 19).

16. In July, a female member of the Majilis called for a major overhaul of legislation to give women the same rights as men. According to the press, she noted "A mother whose child needs an emergency operation in a hospital does not have the right to authorize it" even in the case of the father's absence or death. She also asked "why give the custody of a child to an 80-year-old grandfather and not to the young mother who has lost her husband?" Why indeed?

17. With regard to the physical and ver' al abuse of women, particularly in the family setting, the Special Representative has frequently called on the Government to take firmer action to address what is generally regarded as a widespread problem. In the Special Representative's opinion it is not enough for the Government simply to condemn the situation or to encourage women's NGOs to tackle it, or to write it off as a cultural issue that only time will cure. The establishment of crisis hot lines may help some of the women concerned but does nothing to cure the problem. The objective must be to make Iranian society as a whole intolerant of such conduct (see A/56/278, para. 18).

18. Another area in need of attention is the empowerment of women, specifically including them in senior management and professional positions in government and in the private sector. In the year under review, the touchstone issue was perhaps the widely expected appointment of

women to the second Khatami Government. The 12 women members of the Majilis prepared their own list of three women candidates for the cabinet. This was not to happen and, according to one press report, the President's plan to appoint women as education minister and as cooperatives minister was overruled by higher authority.

19. During the period under review, there were two events that could clearly be seen as efforts to constrain women who were advocating change. One was the arrest of a prominent female film maker, Tahmineh Milani, some of whose films deal with male chauvinism in the Iranian family, and who has been quoted in the press as declaring that feminism was a way of "salvation for women who are deprived of equal rights" (see also para. 12). The other case was the imposition of a 22-month prison sentence on a female member of the Majilis, Fatemeh Haqqiqatju. According to the press, she was found guilty of having, in a statement on the floor of the Majilis, misinterpreted the words of the founder of the republic, "propagated" against the establishment, and insulted the Guardian Council and the head of the Tehran Revolutionary Court.

20. The Special Representative is confident that pressure for change in the treatment of women from within the country will only increase and that for this reason alone the Government would be wise to act now.

IV. LEGAL SUBJECTS

A. Reform of the legal process

21. The Special Representative wishes to record that the long awaited bill on the reform of the Judiciary has finally reached the Majilis. At the time of preparation of this report, he has not seen a detailed description of the bill. However, according to press reports, it stipulates that exceptional tribunals like the revolutionary courts will be able to deal only with cases explicitly referred to them by law. Officials and military personnel will be tried only by Tehran's Criminal Courts. If this works out to be the case in practice, it will be a major improvement.

22. Meanwhile some judges continue to ignore a circular directive from the Head of the Judiciary on the treatment of detainees in pre-trial detention, the details of which were set out in last year's report to the Commission (E/CN.4/2001/39 of 16 January, para. 31). In the case of journalist Taqi Rahman, for example, his family reports he had been in solitary confinement for six months up to 26 August 2001, with only one family visit and no telephone contact. Similar treatment was accorded to a number of the Religious Nationalist/Freedom Movement detainees (see paras. 54-55). The Special Representative chooses not to question the good faith of the Head of the Judiciary in issuing his circular instruction, but does question his willingness or else his ability to enforce it.

B. The prisons

23. Prisons in Iran continue to be a subject of concern and controversy. The press reported a statement by the head of the National Prisons Organization that there were about 160,000 inmates of whom about two thirds were in prison for drug-related offences, that

most of the inmates were aged between 22 and 38, and that 5,000 were women. Moreover, the prison population had increased over 40 per cent in the previous year, and the prisons were now housing more than 100,000 inmates beyond their capacity. Some commentators have questioned whether the figure of 160,000 includes the inmates of the detention centres run by many of the security agencies which were supposed to have been integrated with the National Prisons Organization; this has not yet been effected according to the evidence reaching the Special Representative.

24. The dominant feature of Iranian prisons is their overcrowding and in the period under review this seems to have had the inevitable results of prison disturbances on the one hand and breakouts on the other. The Special Representative has reported in the past on some of the prescriptions for overcrowding. The main thrust of current plans seems to be a parallel system of camps for drug related offences, to be located in remote parts of the country. The Director of the Prisons Organization reports that eight such camps are now in existence. The abuse of persons in detention is referred to in other sections of this report (paras. 43 and 56). The Special Representative wishes to draw the attention of the Government and particularly the Judiciary and the National Prisons Organization to the provisions of the Standard Minimum Rules for the Treatment of Prisoners" (adopted in 1955 by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders), the Body of Principles for the Protection of All Prisons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173 of 9 December 1988) and the Basic Principles for the Treatment of Prisoners (General Assembly resolution 45/11 of 14 December 1990).

C. Punishments

Public punishment

25. In late July 2001, a drive was begun by the law enforcement agencies against what was seen to be immoral behaviour. The target groups were chiefly young people in Tehran, the most often declared offence being the consumption of alcohol. The punishment was typically 70 or 80 lashes administered in public. The Interior Minister for his part condemned the public flogging of young people, noting that public whipping in this day and age has serious political and social consequences. The Tehran Security Council attempted to limit the use of public punishment by declaring that all court orders to this effect would have to be reviewed by it. A spokesman said that the Council believed that public punishment not only failed to contribute to the prevention of crime but in fact had negative social consequences in that it created a sense of melancholy in people and promoted the idea that laws were opposed to the interests of the people.

26. The Head of the Judiciary defended the use of public punishment, arguing that people should have the right to see those violating the laws and Islamic sanctities being punished before their eyes. This provoked a major public controversy, in the course of which the President condemned such action.

27. Among the arguments used by the proponents of public punishment was that it would "boost security", that it was a means of deterring rising criminality and breaches of Islamic teaching, that "it would teach a lesson to the public", that "it would be a deterrent" and that "pressure is needed for keeping order in a society". However, some critics pointed out that it terrified only ordinary citizens, not criminals. One young bystander was quoted in the press as declaring he had "seen things which make me want to leave this country".

28. Towards mid-September the use of public floggings in Tehran appeared to die down somewhat but reports of public floggings in the provinces continued at least until the end of October. An international NGO recorded some 270 floggings to 22 October 2001, with some of the victims being as young as 14.

29. The same NGO had recorded 125 executions to 29 October 2001. The best information available to the Special Representative is that close to 20 public executions occurred in the two months to the end of August. One of these, very unusually, was of a woman convicted of murder.

30. The Special Representative has expressed to the Government his concern over the apparent rise in flogging and execution, over the public application of such punishments and over their apparent application in some cases to minors (see annex VI, para. 11).

Torture and other cruel, inhuman or degrading treatment or punishment

31. With regard to the use of torture in the prison system, the Special Representative notes what could become the first serious step to deal with this black spot on the Iranian legal system and, incidentally, to enforce the constitutional ban on such action. According to the press, in late November a substantial majority of Majilis members signed a petition identifying a number of acts of torture that occur during the interrogation of prisoners, calling for the creation of a council of representatives of the judiciary, the legislature and the executive to supervise the treatment of prisoners, with the right to visit places of detention at any time and the duty to report any act of torture to the heads of the three branches of Government. Finally, the Special Representative would remind the Government of Commission resolution 2001/62 of 25 April 2001 on the subject of torture.

32. The Special Representative has made several representations concerning the apparent recommencing of stoning after several years without reports of such punishment. There was also a report in the press of the public decapitation of an Afghan for armed robbery, multiple rape and kidnapping.

33. The Special Representative condemns the use of these punishments. He recommends that the death penalty be used only in accordance with the conditions laid down in article 6 of the International Covenant on Civil and Political Rights and by the Commission on Human Rights in its resolution 2001/68 of 25 April 2001, that flogging, a punishment, generally recognized to be cruel, inhuman or degrading, be discontinued, and that public punishment generally recognized to be at the least a process that demeans and humiliates the victim, be discontinued.

Diyah

34. The concept of diyah is a complex one and the Special Representative treads in this area with reluctance. His attention is attracted to two features of diyah as it is practised in Iran. The first is that murder appears to fall under qasas or retribution (*lex talionis*), which seems to be in effect as Islamic private criminal law. It is understood that the relatives of the victim can pardon the murderer or demand the payment of diyah (blood money) instead. However, where the perpetrator is a male and the victim was a female, it is the relatives of the victim that have to pay to the perpetrator half the appropriate diyah for the offence before exacting revenge, that is before the murderer is executed. If this is a correct understanding of diyah, the Special Representative finds it very strange indeed.

35. It is noted that qasas openly discriminates between men and women (arts. 209, 210 and 300, Third and Fourth Books, the Islamic Punishment Code). In addition, the Special Representative is informed that, in practice, where the victim is a non-Muslim, there is no diyah.

36. The Special Representative understands that while the practice of diyah is widespread in Muslim societies, not all of them discriminate on the basis of sex or religion (see annex I). In Iran, some senior clerics such as Ayatollah Saanee are reported to be arguing now that there should be no distinction in diyah between men and women.

37. The Special Representative urges the Government to abolish discrimination on the basis of sex or religion.

D. Lawyers and judges

38. Lawyers in Iran continue to be under pressure if they defend clients unpopular with some of the elite. During the period under review, several more were summoned by the Judiciary, apparently for remarks they had made, typically remarks critical of the Judiciary. For example, Mohmoud Alizadeh Tabatabai, whose clients had accused the police of torture, was sentenced to eight months in prison for "defaming" a former police chief. Nasser Zarafchan, a lawyer for family members in the serial murders case, is being sued for "revealing" flaws in the verdict of that trial.

39. In this context, the Special Representative recalls Commission resolution 2001/39 of 23 April 2000, and the Basic Principles on the Role of Lawyers adopted by the Eighth United Nations Congress on the Prevention of Crime and Treatment of Offenders and welcomed by the General Assembly in resolution 45/166 of 18 December 1990. The Special Representative urges the Government to respect international standards with regard to the status of lawyers.

40. Some judges continue to violate the human rights of detainees, particularly in the pre-trial stage (see the Special Representative's interim report to the General Assembly A/56/278, para. 25). The Special Representative notes that the name of Said Mortazari continues to show up in press stories about the most egregious conduct of the Judiciary (see para. 11). The Special Representative recalls being told by a senior Judiciary official that Mortazari was one of 40 judges being investigated by the Disciplinary Court for Judges. Meanwhile, however, he

continues to wreak havoc with such rights as freedom of expression. The Special Representative recommends that Judge Mortazari be immediately suspended from the bench, pending a decision on his case by the Disciplinary Court for Judges.

V. STATUS OF INTELLECTUALS AND OF STUDENT, RELIGIOUS AND POLITICAL DISSIDENTS

A. Student unrest

41. Campus political activism grew in the run-up to the June presidential election. There was an evident tone of anger and despondency. This continued up to the second anniversary, on 9 July, of the 1999 student disturbances. For that occasion, the law enforcement agencies and the vigilante Ansar-i Hizbullah were out in force. The press reported that 85 persons had been arrested.

42. In the period since then other student arrests have been reported in the press. In August new charges were reportedly brought against Ali Afshari, a student activist who had attended the Berlin Conference (see paras. 52-53) and who since his arrest in December 2000, and notwithstanding his purported confession on television, had reportedly been held in solitary confinement until his recent release on bail.

43. Also during this period, two accounts of gross mistreatment of students in prison became public. One reached the Special Representative in the form of a "public letter" and the other is reportedly posted on the web. The former is yet another account of prolonged torture in Towhid and other prisons.

44. In mid-November the Special Representative received a list of 19 imprisoned students, 9 of whom have been detained since the July 1999 student disturbances. Only in some of the cases is the place of detention known. In other cases the students are listed as "abducted", "whereabouts unknown" (see annex V). Four of them in Evin are reported to have begun a hunger strike.

B. Religious dissidents

45. One of the most awkward groups of dissidents for the Government to handle are members of the ulema, that is Islamic clerics. The treatment of one of the most visible of these, Hassan Yousefi-Eshkevari, was covered in the Special Representative's interim report to the General Assembly (A/56/278, para. 51). He is apparently still in prison.

46. The most eminent of the dissenters, Grand Ayatollah Hossein-Ali Montazeri, was very much present, in spirit at least, throughout the year. Despite being under house arrest, he managed to make public his memoirs in December 2000, which confirmed important details of some of the blackest events in the history of the Islamic Republic, such as the mass executions of political prisoners. Shortly after their publication, Mortazeri's eldest son was detained and as of July, while no charges had been laid he was still in custody.

47. In an interview with a foreign journal in July, Montazeri reiterated his opposition to the present form of government. "The concentration of powers in the hands of a single person is not acceptable and must not be accepted. If the leadership does not change its behaviour radically, there is no future for the religious Government." Shortly after that, Montazeri's son-in-law and three of his associates were picked up by agents of the Special Clerical Court and, according to a member of the family, the following day agents welded shut the doors of Montazeri's office. There continue to be public calls for his rehabilitation.

48. Clearly, there is little appetite to recognize freedom of expression when the subject matter is the nature of government in the Islamic Republic, and the critics are clerics.

C. The serial murders trial

49. The Special Representative has been reporting these grisly events of late 1998 and early 1999 because they constituted a vicious violation of the rights of a group of political activists and intellectuals whose views were apparently not to the taste of important persons. The convictions of 15 persons, the so-called rogue elements in the Ministry of Information (Intelligence), as well as the apparent tone of the judgement were described in the Special Representative's interim report to the General Assembly (A/56/278, paras. 48-50). In that report he also noted the apparently widespread view that the trial was a cover-up and that the real motives behind the killings, as well as the likely knowledge of them of senior figures, had yet to be revealed.

50. In August 2001, the Supreme Court ordered a new trial for those convicted, apparently without giving reasons for its action. This came after the Minister of Information (Intelligence) was quoted in the press as characterizing these murders as "insignificant mistakes", adding that "the people have forgiven " those concerned. In the view of the Special Representative, taking anyone's life, not least when the act is politically motivated, can never be characterized as insignificant. The Minister's comments are surely an insult to the memory of the victims and to their family members. They also reflect an appalling disrespect for the most basic of human rights, the right to life, and by a member of the Government at that.

51. The families for their part have been profoundly dissatisfied with the legal process up to now. Their lawyer is quoted in the press as stating he would participate in the new trial only if he and his colleagues were given complete access to all the relevant files. The Special Representative urges the Government to ensure that the retrial is an open one and that the lawyers for the families are given complete access to the files.

D. The Berlin Conference trial

52. The Special Representative has reported extensively on this matter, which is the trial of 15 Iranian participants in what essentially was an academic conference in Berlin in April 2000. See, in particular, his report to the Commission at its 2001 session (E/CN.4/2001/39, paras. 88-94) and his interim report to the General Assembly at its latest session (A/56/278, paras. 53-57). In the latter report, the Special Representative recorded an

unequivocal undertaking given to him by a senior Judiciary official that action would be taken to vacate all 13 of the judgements rendered in this case. To the Special Representative's knowledge, this has not happened. Indeed, two of the defendants, Said Sadr and Khalil Rostamkhani, apparently facing other charges as well, have had their sentences upheld in one case and reduced by one year in the other. Both are reportedly now in Evin prison. Another defendant in this case, Ezzatollah Sahabi, a 70-year-old journalist, also remains in prison, according to his family in solitary confinement despite failing health.

53. While acknowledging that the reduction on appeal of the prison sentences of Akbar Ganji, Ezzatollah Sahabi and Ali Afshari, as well as the commutation of the prison terms of Mehrgangiz Kar and Shahla Lahidji to fines, are steps in the right direction, the Special Representative again calls on the Government to respect the commitment made to him that all sentences rendered in this case will be vacated and those in jail will be released.

E. Detention of religious-nationalist and Freedom Movement of Iran activists

54. In his interim report to the General Assembly (A/56/278, paras. 58-64), the Special Representative reported on this matter in some detail. In summary, some 60 members of two groups, generally described as the religious-nationalist and Freedom Movement activists, were detained in March and April 2001. Some were immediately released, some were gradually released on bail and some were denied bail, and of those, some were kept in solitary confinement. The Special Representative has made a number of representations with regard to this group, in particular that some were elderly, that some required urgent medical treatment and that those in solitary confinement should be returned to ordinary cells. The Special Representative received a commitment in early July that all those still in prison would be released on bail within several weeks. In fact, as of the preparation of this report in early December 2001, some are still in jail and in solitary confinement.

55. The Special Representative has already made clear his view that the treatment of these individuals has been scandalous and a violation both of the Head of the Judiciary's instruction to judges concerning the treatment of persons in pre-trial detention and of the United Nations guidelines for the treatment of such persons. The Special Representative renews this condemnation, particularly as it applies to detaining persons without bail for more than 30 days, holding these persons in solitary confinement for some eight months, failing to allow ailing detainees to have medical attention and, in some cases, to denying them the prescribed medicines for pre-existing medical regimes, refusing regular access from the date of detention to the detainees by family members and lawyers, and for refusing to allow the presence of lawyers during interrogation. The Special Representative deeply deplores the unwillingness or inability of Iranian leaders to ameliorate the circumstances under which these persons were and in some cases are still being held.

56. Three other persons were arrested in August and September 2001 apparently because of their connections with the Freedom Movement and some of its members. Another individual, a journalist, was sentenced to six months in jail and 50 lashes, seemingly for publishing an account of an interview she had had with the head of the Freedom Movement.

57. On 12 November 2001 the trial began in the Revolutionary Court of some 30 of these persons, primarily it would seem members of the Freedom Movement. The trial is being held behind closed doors with even family members being barred. The ostensible reasons are that:

The charges concern national security;

Publicizing the hearings would "disrupt security and public order";

Remarks concerning senior leaders "would hurt religious feelings".

58. The Special Representative has made representations about the fairness of the procedure, focusing in particular on the closed nature of the trial and the lack of access of lawyers to those not on bail and to the files of all those on trial.

59. In early December 2001, the Majilis condemned the trial, particularly targeting the conditions of detention, the fact that the trial was being held behind closed doors and what were described as "the unjust and unconventional conditions surrounding the hearings". Neither specificities of the acts complained of nor the offences alleged on the basis of those acts have been made public as of early December, eight months after the arrest of the defendants.

60. The Special Representative considers himself obliged to note the embarrassment faced by the President, who has openly denounced these trials, as well as, hopefully, by the Head of Judiciary who, in the view of the Special Representative, must take responsibility for the integrity of the judicial system.

VI. DEMOCRATIC GOVERNANCE

61. In the period under review, tension between the elected and unelected branches of government increased. At least four members of the Majilis were sentenced to prison, in one case for "libelling and slandering Iran's judicial system" in a speech in the Majilis. According to the press, some 60 members of the Majilis have been summoned by the Judiciary, mostly to answer for critical public remarks. The President intervened in the matter of the members sentenced to prison with a letter to the Head of the Judiciary pointing out that, according to the Constitution, members were immune from prosecution for remarks made in the Majilis. In response to a fairly dismissive response by the Head of the Judiciary, the President declared he had a constitutional right to warn the Judiciary to respect freedom of expression.

62. Also in this period, there was a change in the composition of the Guardian Council, which vets legislation put forward by the Majilis as well as vetting candidates for election to the major elected bodies such as the Majilis. The appointment of 6 of the 12 members of the Guardian Council is subject to Majilis approval. The Majilis attempted to impose conditions that the candidates would have to meet and to establish the right of the Majilis to reject the Judiciary's nominees. In the event, through what the press described as a voting "manoeuvre", the Judiciary's nominees were approved. This attempt to make one of the important centres of power somewhat accountable thus failed.

63. In August 2001, the Majlis committee looking into the treatment of detainees reported that the Judiciary had committed "multiple violations of the most basic rights of prisoners". In particular, the report criticized "the conditions of detention, the isolation of prisoners in individual cells", and the lack of access to lawyers and families.

64. In short, Iran's road to democratic governance continued to be a rocky one, with powerful forces working to constrain the will of the people.

VII. STATUS OF MINORITIES

A. Introduction

65. In his last several reports the Special Representative has been urging the Government to establish a national minorities policy. In this report he wishes to place this initiative within the international context. To begin with, the Special Representative would refer to Commission resolution 2001/55 of 24 April 2001,which "reaffirms the obligation of States to ensure that persons belonging to national or ethnic, religious and linguistic minorities may exercise fully and effectively all human rights and fundamental freedoms without any discrimination and in full equality before the law in accordance with the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities". The Special Representative notes that this resolution was adopted without a vote. In this regard, he would also draw attention to the UNESCO Universal Declaration on Cultural Diversity, adopted by the General Conference of UNESCO on 2 November 2001.

66. The Special Representative believes there can be no doubt that the treatment of minorities in Iran does not meet the norms set out in the Declaration on Minorities or in article 27 of the International Covenant on Civil and Political Rights. See in this regard the concluding observation of the Committee on Economic, Social and Cultural Rights, following its examination of the initial report of Iran, that the treatment of minorities in Iran is one of its "principal subjects of concern" (E/C.12/1993/7 of 9 June 1993). The Special Representative takes note of the writings on this subject of one distinguished Iranian legal scholar that the Iranian Constitution, in articles 15, 19 and 20 and elsewhere, in part expressly, in part implicitly clearly establishes the right of all Iranians to equality and fair treatment, and that this right has not been implemented in practice. The Government must commit itself to addressing urgently the status of minorities in Iran as a whole and to bringing the conduct of Iran in this regard into line with recognized international standards, as well as with the Iranian Constitution.

67. The Special Representative hears frequent reference to what is described as the Government's implicit policy of assimilation. It is asserted that such a policy was introduced first by Reza Shah, prior to which time Iran had been in practice a multicultural society. The Special Representative has earlier observed that the original draft of the 1979 Constitution did acknowledge that Iran was a multicultural nation in naming the main ethnic groups that made up the country. He would also note that as seen in the 1995 Copenhagen Declaration of the World Summit for Social Development, the right to be free from attempts at assimilation is emerging as an international norm.

68. The Special Representative believes that at the first level the rights of minorities consist not only in the right to be free from discrimination but, put more positively, that there is now an obligation upon Governments to protect minorities against discrimination and procedural unfairness. At a second level are certain positive rights, such as the use of minority languages in education and the media, and basic civil and political rights such as fair trial, freedom of expression and freedom of assembly and of association. The Special Representative draws particular attention to the provisions of the Declaration on Minorities in this regard.

69. Information reaching the Special Representative suggests that very little meaningful action is being undertaken by the Government to this end. The use of minority languages in the media is sporadic rather than substantive; the use of minority languages in the educational system seems minimal.

70. Finally, the Special Representative has referred to the need to involve the minorities themselves in the preparation of a national minority policy, a right articulated in the Declaration on Minorities. Whether or not it is accurate to characterize the prevailing atmosphere as one of Persian chauvinism, as some minority activists suggest, it is clear that the situation is discriminatory in many respects, as well as being incompatible with existing and emerging international norms. The Government necessarily bears heavy responsibilities in this regard and needs to make an urgent start on a national minority policy. For his part, the President is quoted as declaring that "Iran belongs to all Iranians".

B. Religious minorities

71. In recent reports (for example A/56/278 of 10 August 2001) the Special Representative has noted the establishment of the National Committee for the Promotion of the Rights of Religious Minorities. There are many issues this Committee needs to address, including that of diyah (see paras. 34-37) and the refusal to accept the devolution of property by inheritance to non-Muslims, where there are Muslim beneficiaries. The Special Representative awaits a report that this Committee is in fact functioning.

Sunnis

72. In earlier reports, the Special Representative has described the complaints of the Sunnis about the discrimination they face (see for example his interim report to the General Assembly A/56/278, paras. 74-75). He would recall his earlier comment that underdevelopment seems to coincide with those areas of the country in which Sunnis are in the majority.

73. The Special Representative has now received an allegation of Government control over Sunni theological teaching in Kurdistan through an organization called "Great Islamic Centre in the West", located in Sanandaj. All Sunni students reportedly have to register with the Centre and the Government determines the place of teaching, the subjects, the number of students and the salaries of the teachers. Such matters should clearly be in the hands of the Sunnis themselves.

Baha'is

74. It has been possible in the past year or so to discern some hopeful signs concerning the treatment of the unrecognized minorities, especially the Baha'is. These signs have included the commutation of death sentences (see annex II), the release of prisoners and the 1999 decision of the Expediency Council declaring that "all Iranians enjoy the rights of citizenship irrespective of their belief", followed by measures removing the requirement of declaring one's religious affiliation when registering a marriage or the birth of a child or applying for a passport overseas. The Special Representative also welcomes the statements by Iranian representatives in international forums (the International Labour Organization, June 2000, and the Committee on the Rights of the Child, May 2000), that their Government is concerned to provide for the rights of all citizens, including those who are members of non-recognized minorities.

75. However, no further progress has come to the Special Representative's attention. He understands that the Baha'i community continues to be subject to harassment and discrimination in the areas of, inter alia, education, employment, travel, housing and the enjoyment of cultural activities. Seven members of the Baha'i community remain in prison, apparently because of their faith, and Baha'i property continues to be subject to confiscation (see annex II).

76. In his interim report to the General Assembly (A/56/278, paras. 76-78), the Special Representative reported that, as a complex has been built over the old Baha'i cemetery in Tehran, the Iranian authorities had allotted other land for this purpose. It is now reported that the land offered is in fact wasteland, with no access to water. Further, the community has been denied permission to mark individual graves or to construct mortuary facilities.

77. Also of concern is the sentence issued by a judge of the Supreme Office of Control and Review, Hamzih Khalili, on 15 September 2001, in the context of an appeal by the Muslim owners of property rented to the Baha'is that was confiscated in 1998. According to an unofficial translation to which the Special Representative has had access, the verdict declares that the "seizure and confiscation of the properties belonging to the misguided sect of Baha'ism is legally and religiously justifiable" and states that "the cultural activities of the misguided sect of Baha'ism - as prescribed by the order of His Excellency the Supreme Leader - do need to be seriously opposed". This would seem to indicate that the 1991 memorandum on "The Baha'i Question", issued by the Supreme Revolutionary Cultural Council and approved by the Supreme Leader, is still in force and therefore that discrimination against Baha'is continues to be official practice, a situation the Special Representative deeply deplores.

78. The Special Representative wishes to reiterate his appeal to the Government of Iran to implement his outstanding recommendations (A/53/423 of 23 September 1998, para. 45), as well as those of the Special Rapporteur on religious intolerance (see E/CN.4/1996/95/Add.2 of 9 February 1996).

Christians

79. It is difficult to obtain a reliable estimate of the number of Christians in Iran. A major complication is the mixing of ethnicity with religious affiliation. Estimates of the non-ethnic Christians, that is, leaving aside the Armenians and Assyrians, vary from several thousand to as

high as 15,000. The Armenians and Assyrians are recognized as official religious minorities, that is, as Christians. It is a status that assigns them, along with the Jews and the Zoroastrians, second-class citizenship.

80. However, their lot is considerably better than that of the unrecognized, that is, the non-ethnic Christians. These are those groups of Christians who are for the most part ethnic Persians. Evangelical Christians such as members of the Assemblies of God have been harshly persecuted over the years, apparently on the grounds that they have been or might be proselytizing. Some of them are said to have been convicted of apostasy. Some have been sentenced to death and a few have been executed. The Special Representative has been informed that only three small Persian-speaking churches may remain in operation and that they have had to agree not to evangelize Muslims. The printing of Christian literature is prohibited and Christian bookstores are banned. A number of Christian activists have reportedly fled the country.

81. In the Special Representative's opinion, the situation of the Christians, particularly the non-ethnic Christians, does not seem to have improved since the 1996 report of the Special Rapporteur on religious intolerance on his visit to Iran (E/CN.4/1996/95/Add.2). The Special Representative again calls on the Government to implement the recommendations of the Special Rapporteur on religious intolerance.

Yaresan

82. In the south of the area inhabited by the Kurds, there is a little known community called variously the Yaresan or "Al Haq". According to one scholarly writer, the Yaresan are Kurds who practise an apparent form of Zoroastrianism or Yezidism (the only uniquely Kurdish religion), but are labelled Muslems because they adopted several superficial features, including veneration of Ali, the fourth Caliph.

83. The Special Representative has received representations from members of this community concerning local discrimination, both official and social, apparently based on their religion.

84. The Special Representative has received only limited first-hand evidence of the treatment of this community. However, its existence seems to be widely accepted and its treatment to be consistent with the evidence he has received from other non-Shi'ah communities. The Special Representative urges the Government to recognize the existence of the Yaresan, to prevent discriminatory practices against them and to include their representatives in the National Religious Minorities Commission.

C. Ethnic minorities

The Azeris

85. The Azerbaijan Turkic-speaking people of Iran (the Azeris) are recognized as the largest ethnic minority and may indeed be the largest ethnic group in the country. It appears to be accepted that about 12 million of them live in the north-west and that in the country as a whole

there may be as many as 30 million. It is asserted that the Azeris have lived on the Iranian plateau for thousands of years and that they predate the entry of Persian tribes to the area.

86. The complaints brought to the Special Representative concern the use of the Azeri language and that the unwelcome prospect of Azeri cultural assimilation is accelerating (see annex III). More particularly, Azeris are asking for the teaching of "proper" Azerbaijani Turkish along side Persian in schools in regions predominantly inhabited by Azeris, production in and the broadcasting of "proper" Azerbaijani Turkish on radio and television, the allocation of one television channel for Turkish language broadcasting, the creation of schools of Azerbaijan Turkish language and literature at universities throughout Iran (it is noted that while Azerbaijani Turkish is not taught at the University of Tabriz, seven other languages are taught) and the facilitation of the creation of Azerbaijani Turkish cultural centres.

87. The representations reaching the Special Representative also refer to harassment and imprisonment of Azeri cultural activists, such as Dr. Mehmud Ali Chehregani, whose circumstances were described by the Special Representative in earlier reports and whose imprisonment was the subject of urgent representations by the Special Representative to the Government. He has since been released. The Special Representative has received copies of open letters to the President signed by various groups of Azeri personalities, such as members of the Majilis and writers and poets, demanding fair treatment for Azeri culture. Their letters have taken the President to task for unimplemented campaign promises on cultural freedom; they complain of "cultural and ethnic insults and humiliation" from government media sources and they invoke article 15 and article 19 of the Constitution.

The Kurds

88. The Special Representative has in several reports discussed the status of the Kurds. He recognizes the difficulty of capturing the real situation in such matters as the treatment of minorities without access to the regions concerned. The challenge of distinguishing local incidents from broader trends may be also more formidable in this context.

89. In his interim report to the General Assembly (A/56/278, paras. 82-84), the Special Representative identified a number of indictors that conditions may be improving for the Kurds. More recent information suggests that on balance, discrimination and repression continue to exist. A number of specific allegations are set out in annex IV.

90. In the political sphere, perhaps the most dramatic event was the attempted, and in the event withdrawn, collective resignation in October 2001 of all six members of the Majilis from the province of Kurdistan. In a letter to the Interior Minister, the six said "unfortunately, Kurdistan province and the Kurds, especially Sunnis, are denied their legitimate rights, and executive officials are turning their backs to calls for justice on the political, economic, cultural and social issues they have brought out". Late in 2000, a Kurdish member of the Majilis had publicly alleged the existence of "a campaign of repression and serial killings" against the Kurdish community.

VIII. ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Employment

91. In the period under review the scarcity of jobs and the treatment of workers continued to draw public attention. While a senior government official declared that unemployment had declined to 13.7 per cent between March and July 2001, the press was sceptical. In June, one paper declared that, given the immense number of hidden, seasonal or unregistered jobless people, "independent experts believe the unemployment rate to be over 25 per cent." The press continues to carry frequent stories of unpaid salaries, sometimes stretching over many months. Other stories report workers being laid off, in some cases in very large numbers, and sometimes being replaced by workers from contract companies. There were also reports that some employers were resorting to short-term contracts in order to avoid making worker insurance payments. In October, the press carried a report of a demonstration of some 10,000 unpaid textile workers in Isfahan worried that a recent bill passed by the Majilis would reduce the number of textile enterprises and thus the need for textile workers.

92. ILO is planning to conduct an assessment mission in February 2002 to develop a project in the area of employment creation for women.

93. The President, for his part, continues to express concern about the employment situation. In October 2001 he told the Majilis that 42 per cent of the mostly young people seeking jobs could not find them. The Special Representative is concerned at the Government's generally modest efforts to address what is one of Iran's most serious economic problems, one that carries a devastating social and human cost.

IX. OTHER IMPORTANT ISSUES

A. National human rights bodies

94. In November 2001, UNDP/Tehran signed a project document with the Islamic Human Rights Commission (IHRC) of Iran to strengthen the human resources and infrastructural capacities of the institution. UNDP will support 14 courses on promotion and protection of human rights for 1,600 human rights defenders in different cities of the country. The project will also support the Commission's capacity to build networks through the development of a computerized roster of contacts.

95. The Special Representative has received no recent reports on the Commission's activities. Accordingly, his latest comments are those contained in his interim report to the General Assembly (A/56/278, paras. 99-102).

B. The status of children

96. In his previous report to the Commission (E/CN.4/2001/39, paras. 108-116), the Special Representative devoted a section to the rights of the child and reported on the recommendations made by the Committee on the Rights of the Child (see CRC/C/15/Add.123) after its examination of the initial report of Iran in May 2000.

97. There continue to be positive developments in the area of juvenile justice. The Special Representative is informed that a committee was established in February 2001 to draft a new juvenile justice legislation. Over the past two years, all juvenile judges have been given training on the Convention on the Rights of the Child and on the relevant international instruments on juvenile justice. Social workers from the National Prisons Organization have participated in such courses. There are now examples of alternative sentences being issued by juvenile judges in some provinces.

98. The Special Representative would note that there reportedly remain on the books two invidious provisions concerning children and the criminal law. One sets the age of penal responsibility at the age of puberty, 9 years for girls and 15 years for boys, which means that young people can face adult punishments. The second is that an adult who kills a minor is subject to the death penalty unless the accused is the father or grandfather of the victim, in which case the accused is subject only to the payment of diyah. The Special Representative trusts that the promised new Juvenile Justice Act will amend both of these provisions.

99. According to Iranian press reports, a representative of the State Welfare Organization stated in November 2001 that "one hundred and fifty children end up in Iranian courts every day for being harassed by their families". According to the same report, statistics would seem to indicate that child harassment is on the rise in the country. It is reported that the drafting of a Child Protection Act is under way. This follows the recent submission to the Majilis by the State Welfare Organization of a plan for the protection of abused children. The Special Representative welcomes these measures, which he deems urgent.

100. There continue to be reports of important numbers of Iranian children working illegally in workshops and factories. In October 2001, the Majilis adopted a law which calls for the punishment of those who violate the provisions of the Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst forms of Child Labour (ILO No. 182). The law has now been approved by the Guardian Council.

C. Drugs

101. The Government of Iran is now openly recognizing the extent of the social problem generated by drugs in the country. Official estimates are that 2 million persons out of a population of 65 million are now addicts. Press reports suggest that over 100,000 persons in prison are there for drug-related reasons (see para. 23).

102. Iran also remains a major transit point for narcotics. The extent of smuggling has reportedly made soft drugs as accessible as cigarettes, especially in border cities. The efforts of the Iranian authorities to stop this traffic have been internationally recognized, but Iran is paying a high price in terms of human life and budgetary resources in this struggle. The Iranian authorities have sought regional and international cooperation, cooperation which, according to the experts, is fundamental if real success is to be achieved.

103. As pointed out by the Special Representative in earlier reports, poverty and unemployment are major factors in the rise of drug trafficking and abuse. Sistan va Baluchistan, a major transit area, is one of Iran's poorest provinces. As stated by one Tehran academic, those in the narcotics trade have few economic alternatives to smuggling. The best job for local residents in some areas is working as a guard on a drug-smuggling caravan.

104. From the demand side, addiction is increasingly seen as an illness. It is reported that this year a new Outpatient Clinic for the Treatment of Addictive Behaviour at the Zahedan Psychiatric Hospital has started experimenting with methadone treatment.

X. CONCLUSIONS AND RECOMMENDATIONS

105. The Special Representative's conclusions and recommendations are given in each section of the report. In short, the Special Representative believes that Iranian society is becoming more sensitive to the moral and practical need to move at a faster pace than heretofore towards a tolerant, diverse future that, at its core, attributes the highest value to the essential dignity of the individual.

106. In the Special Representative's view, human rights need not necessarily be seen as a system of absolute values. Instead, they can be viewed as a template for change, an engagement in a dynamic, forward-looking process. Some of the crucial elements are a benevolence of leadership, a recognition of the dignity of the individual in the political culture of the society, and the acceptance of government as just another actor before the Constitution and the courts.

107. Among many contradictions in contemporary Iran is the clearly-expressed will of the people on the one hand and the tenacious resistance to that will on the other. The Special Representative believes that Iranian society has been evolving over many years and that this momentum cannot now be turned aside. Change is inevitable. The current intransigence, which if anything has become more pronounced since the body of this report was completed, is a costly distraction but cannot be allowed to cloud the goal or the path to it.

108. The Special Representative regrets that this final report could not tell a different story, one more reflective of the President's aspirations for his country. The people of Iran certainly deserve to see, and indeed may require, the day to come when a human rights culture will flourish in this ancient soil which has contributed so much to the history of world civilization.

Annex I

THE CONCEPT OF DIYAH

"The Islamic law of personal injuries is based on the institution of diyah i.e. the Shariah compensation for death and personal injury. Diyah is a specified amount of money or goods due in cases of homicide or other injuries to physical health unjustly committed upon the person of another. Corresponding to the notion of wergeld of the ancient Roman and Germanic laws it is a substitute for the law of private vengeance .... The historical origin of the institution lies in pre-Islamic customary practice, where it was closely bound up with the tribal-based social organization of Arabia. Rested upon a tribal system, the pre-Islamic Arabia lacked any political authority, even within the individual tribe. Thus a system of private justice, based on retribution, prevailed in criminal and tort law. The system was tempered only partially by the practice of voluntary submission to arbitration."[a]

"The Islamic criminal law is for the most part based on the law of retribution ... [Crimes against the persons are] affected by the decision of the individual victim who may wish to exercise his right to retribution or alternatively decide to accept blood-money, or waive his right to either of the two penalties."[b]

"In the absence of a country agreement between the parties there is a fixed tariff for the amount of diyah."[c] The full amount of diyah is due "only where the victim is a Muslim, of the male sex and of freeborn status. The diyah of a woman is half that of a man". The diyah of a non-Muslim is at the rate of one third or one half.[d]

However, different groups seem to have different rules relating to the rate at which women or non-Muslims are compensated. For example, among certain groups the diyah of a woman even reaches four times or eight times the amount of a man's diyah.[e] "A difference of religion, however, did not bar retaliation, as Muslims and non-Muslim subjects had an equal right of self-protection. And according to the Hidaya, there is no difference between the fine for death of a Muslim and that of a non-Muslim subject."[f]

Notes

[a] S.H. Amin, *Islamic Law and its Implications for Modern World* (Glasgow, Royston Ltd., 1989) p. 309.

[b] S.H. Amin, *Islamic Law in the Contemporary World* (Glasgow, Royston Ltd.,1985), p. 28.

[c] *Implications*, p. 312.

[d] *Implications*, p. 314.

[e] *Implications*, p. 319.

[f] M. Abu-Hassan, "Islamic criminal law" in G.E. Lampe, ed., *Justice and Human Rights in Islamic Law* (Washington, D.C., International Law Institute, 1997) p. 88.

Annex II

INFORMATION ON THE SITUATION OF THE BAHA'IS

The following is based on information received by the Special Representative:

1. Mansur Haddadan (arrested on 29 February 1996 and sentenced to three years in prison), Manuchechr Ziyai (arrested on 1 May 1998) and Ziaullah Mizapanah (convicted on 16 March 1999) have now reportedly been released.

2. The death sentence of Musa Talibi, arrested on 7 June 1994 and charged with apostasy, has now been revised to life imprisonment. He has reportedly been transferred to a prison in Isfahan.

3. Other Baha'is remaining in Iranian prisons include Bihnam Mithaqui and Kayvan Khalajabadi (arrested on 29 April 1989 and sentenced to death); Dhabihu'llah Mahrami (arrested on 6 September 1995, charged with apostasy and sentenced to life imprisonment, following commutation of a death sentence by the President); Sirus Dhabihi-Muquaddam, Hidayat Kashifi Najafabadih and Ata'u'llah Hamid Nasirizadih (arrested in November 1997, sentenced to seven, five and four years' imprisonment, respectively, following commutation of death sentences in the case of the first two).

4. If the number of Baha'is imprisoned has decreased over the years, there seems to be a pattern of short-term detentions of Baha'i individuals presumably as a harassment measure. According to information received, 70 Baha'is have been arrested in various parts of the country since 1998, for periods of from five days to three months.

5. It is reported that since September 2001 in the city of Yazd three Baha'is were evicted from their properties while 13 others received court orders to vacate; one Baha'i was evicted in Isfahan and four in Tehran.

Annex III

REPRESENTATIONS CONCERNING THE STATUS OF THE AZERIS

The following is a list of specific complaints received by the Special Representative:

Denial of cultural autonomy;

Harassment and imprisonment of cultural activists;

The banning of the use of the Azeri language in schools;

The use of Farsi-Azeri hybrid, rather than pure Azeri, on television and radio;

Teaching in schools that the birth of the Iranian people came with the arrival of the Persian tribes and that the Azeri people are Iranian Aryans, forced to change their language upon the arrival of the Mongolians;

Changing or distorting Azeri geographical names;

Refusal to register a child with an Azeri name.

Annex IV

REPRESENTATIONS CONCERNING THE STATUS OF THE KURDS

The following is a list of specific complaints received by the Special Representative:

Violent deaths of individual Kurds, apparently the result of reckless or intentional acts of the law enforcement forces;

The recent kidnapping and death of a popular local cultural figure;

Death sentences imposed and in most cases carried out against Kurdish activists;

The continuing refusal of the authorities to allow Kurdish to be taught at any level in schools in Kurdistan;

The limited use of Kurdish in the print and electronic media and, even then, usually a translation of Farsi material; the air time for Kurdish programming is "drastically shorter" than it was before 1979;

Various forms of economic discrimination, including access to jobs in general; in the case of the Piranshehr Sugar Company, the discharge in May 2001 of 80 per cent of the Kurdish employees by a non-Kurdish president and their replacement by workers of other ethnicities, "and those who collaborate with the Pasdaran";

The use of Kurdish territory, particularly Kermanshah province, as a "resting place" for drug addicts, criminals and other difficult groups from around the country;

A Kurd activist in Sardasht who ran for the municipal council on a platform of improving the conditions of the Kurdish community found himself in jail four months after his election, denounced as an enemy of the Islamic Republic;

The disallowance of the election to the Majilis of two Kurds representing Orumieh and Naghade districts;

The gross underrepresentation of Kurdish districts in the Majilis, as also perhaps other districts dominated by other ethnic groups, as seen for example in the failure to add any new seats for Kurdish districts in the latest 5th Majilis redistribution.

Annex V

IMPRISONED STUDENTS

Based on information received by the Special Representative, the following students were arrested during the student demonstrations of July 1999 and continue in prison:

Mehran Abdolbaghi: a member of Iran's National Front. He is charged with acting against national security.

Ahmad Batebi: a member of the United Student Front. Charged with acting against national security for holding up the bloody shirt of a fellow student. He was first sentenced to death, but the sentence was later commuted to 10-years' imprisonment. He has allegedly been tortured and is suffering from severe backache.

Hossein Deldar: a member of the United Student Front. He has been sentenced to a 15-year term of imprisonment and is currently held at Evin.

Bahiyeh Jilani (a medical student): she has allegedly been tortured and requires urgent medical attention.

Manuchehr Mohammadi: head of the National Union of University Students and Alumni. He is charged with "acting against national security". He has been allegedly tortured and held in solitary confinement. He suffers from gum and kidney disease.

Akbar Mohammadi: brother of the above-named and a member of the National Union of University Students and Alumni. He was originally sentenced to death, but his sentence was then commuted to five years' imprisonment. He has allegedly been tortured and suffers from kidney disease and loss of hearing.

Farrokh Shafiee: a member of the United Student Front. He was sentenced to a two-year term of imprisonment.

Behrouz Javid Tehrani: currently held at Karaj prison.

Hossein Yekta: a member of the United Student Front. Currently held at Evin prison.

According to the information received by the Special Representative the following student activists have been arrested in the past two years:

Amir Abbashgholi Nejad: arrested in November 2000 and at present imprisoned at Evin.

Hassan Ghadimi and Ali Akbar Rahimi Far: members of the Democratic Front of Iranian People; arrested in April 2001.

Siavosh Haji Hassan: a member of the United Student Front; arrested in April 2001 and held in an unknown location.

Mahmoud Shoshtari: a member of the United Student Front. Under arrest since June 2000.

Rahim Ramezani: a Member of the Democratic Front of Iranian People; detained since April 2001 in an unknown location.

Mohammad Reza Kasrai: a member of the United Student Front; reportedly arrested in June 2000.

Kourosh Sehati and Saeed Kashiloo: members of the United Student Front, allegedly abducted in March 2001. Their whereabouts are unknown.

Annex VI

CORRESPONDENCE BETWEEN THE SPECIAL REPRESENTATIVE AND THE GOVERNMENT OF THE ISLAMIC REPUBLIC OF IRAN

June 2001-December 2001

1. By letter dated 27 June 2001, the Special Representative joined the Special Rapporteur on extrajudicial, summary or arbitrary executions in drawing the urgent attention of the Iranian authorities to the sentencing to death of Azizullah Shenwari, a 14-year-old Pakistani. Reference was also made to a report in the Iranian press on 29 May 2001 regarding the hanging of an 18-year old boy, Mehrdad Yusefi, in a prison in the south-western region of Ilam. According to the press report, he was convicted for a crime which he had committed when he was 16 years old. In the letter the signatories appealed to the Government of Iran to refrain from executing the above-mentioned person.

2. The Special Representative joined the Chairman-Rapporteur of the Working Group on Arbitrary Detention in sending an urgent appeal on 13 July 2001 on behalf of Mr. Akbar Ganji, reportedly held in detention in contravention of article 33 of the Iranian law regarding the procedure of public and revolutionary courts, which states that detention orders can be challenged within 10 days and that, under any circumstances, the position of the defendants shall be settled within one month. The signatories requested the Iranian authorities to respect the right of Ganji to a fair trial and to take the necessary measures to guarantee his physical and psychological integrity and his right not to be deprived arbitrarily of his liberty (for previous urgent actions on this case see A/56/278, annex III, para. 3).

3. In a letter dated 24 July 2001, the Special Representative drew the urgent attention of the Iranian authorities regarding the continued detention of approximately 20 members of the so-called "religious-nationalist" group, many of them associated with the Iran Freedom Movement, who were arrested on 11 March and 7 April 2001. Specific reference was made to the cases of Mohammad Maleki, Hossein Rafiee, Reza Reiss-Tousi, Habibollah Peyman, Alireza Rajai, Mohammad Basteh-negar, Massoud Pedram, Mahmoud Emrani, Taqi Rahmani, Saeed Madani, Morteza Kazemian and Mohammad Mohammadi Ardahali. Reference was also made to other intellectuals affiliated to the group who were arrested earlier, namely, Hossan Yousefi-Eshkevari, Ezzatollah Sahabi, Hoda Saber and Reza Alijani (for previous urgent actions on this case see A/56/278, annex III, para. 12). In this letter the Special Representative referred to reports that:

> No concrete evidence had been presented in support of the charges brought against the defendants and the files had not been put at the disposal of their lawyers;
>
> Temporary detention orders had been issued in disregard of the articles of the Constitution which limit the cases in which judges can resort to this measure;

The defendants had been held in continued incommunicado detention in unknown locations and had been exposed to psychological and physical pressure, including the use of drugs, to extract "confessions";

The defendants had been denied the right to the presence of legal counsel, including during and after prolonged interrogation.

4. The Special Representative expressed his deep concern over the treatment of the above-mentioned persons and urged the Iranian authorities to use all resources at their disposal to have them released. In this context, the Special Representative referred to the information provided to him on 9 July 2001, according to which Mr. Alizadeh, Chief of the Tehran Justice District had said that all the detainees were about to be released on bail. The Special Representative conveyed his urgent appeal that the commitment be honoured.

5. On the same case, the Special Representative joined the Special Rapporteur on torture in a new urgent appeal sent on 29 October 2001. The signatories expressed their deep concern over alleged denial of access to medical treatment for some of the detainees of the so-called "religious-nationalist" group. Special reference was made to the cases of Habibollah Peyman, Hashem Sabaghiyan, Hossan Yousefi-Eshkevari, Reza Alijani, Reza Reiss-Tousi, Abolfazl Bazergan and Ezzatollah Sahabi. The signatories reiterated their urgent request to the Iranian authorities to use all resources at their disposal to have these persons released immediately.

6. As the trials of the members of the "religious-nationalist" group started on 10 November 2001, the Special Representative sent a new urgent appeal on their behalf, dated 28 November 2001, in which the Special Representative expressed his concern that the trials were being held in camera and over reports that the defendants' lawyers had not had access to the files. The Special Representative urged the Iranian authorities to take all necessary steps to guarantee a fair trial to the offenders, reiterated his deep concern over the treatment they received during pre-trial detention and urged the Government to use all resources at its disposal to have the 10 detainees reportedly still being held in prison released immediately.

7. On the same case, by letter dated 27 November 2001, the Permanent Representative transmitted the following information:

"The following individuals have been released:

Mohammad Bestehnegar

Massoud Behnoud

Ahmad Sadr Haj Seyed Javadi

Morteza Kazemian

Mohammad Maleki

Mohammad Mohammadi Ardehali

Taher Ahmad Zadeh

Masoud Pedram

Hossein Rafiee

Mahmoud Emrani

Ali Reza Rajai

Other cases, including that of Mr. Ezzatollah Sahabi, are currently subject to review in the relevant court."

8. In a letter dated 9 August 2001, the Special Representative joined the Special Rapporteur on violence against women in requesting information from the Iranian authorities concerning the case of Soraya Dalaian who, according to her personal testimony, was repeatedly raped by two men during her stay in Evin prison in 1997. According to her report, women were systematically subject to rape by judges and high-ranking officials of Evin prison.

9. In the same letter, the signatories expressed their deepest distress over the execution by stoning of Maryam Ayoubi on 11 July 2001 and urged the Iranian authorities to undertake a policy of actively suppressing recourse to stoning throughout the country (see A/56/278, annex III, para. 6).

10. By letter dated 9 November 2001, the Permanent Representative transmitted the following information regarding the case of Soraya Dalaian:

> "The aforementioned person was arrested and sentenced to imprisonment on 10 November 1997 for illegally standing financial bail and was released on 8 January 1998. Once again she was sentenced to imprisonment for buying and selling property belonging to others on 28 April and was released on 3 May 1998. She was also sentenced to imprisonment on 2 August 1998 on the charges of drawing a dishonoured cheque and presenting forged documents to the police of the Passport Division. She was released on 23 September 1998 on bail.
>
> "Therefore her conviction has no political overtones whatsoever in any of the cases mentioned."

11. The Special Representative joined the Special Rapporteurs on torture and on extrajudicial, summary or arbitrary executions in sending an urgent appeal on 3 September 2001 regarding the wave of public hangings and street floggings. The signatories appealed to the Iranian authorities to exercise their authority so that the cases of all persons under sentence of death were reviewed in order to ensure strict compliance with international human rights standards. They expressed their concern regarding the application of corporal punishments

which entail torture, such as flogging, and which are incompatible with international instruments. They also expressed their view that public application of such punishments was incompatible with human dignity and condemned this practice as a means of public education.

12. In a letter dated 30 September 2001, the Special Representative and the Special Rapporteur on torture further referred to the reported public flogging of five young males, aged between 14 and 25, on 7 September 2001 in the town of Shandiz and reiterated the concerns expressed in their previous letter.

13. In a letter dated 18 September 2001, the Special Representative joined the Special Rapporteur on freedom of opinion and expression in drawing the Iranian authorities' attention to the verdict issued on 27 August by the Supreme Court upholding the sentences of Khalil Rostam-Khani and Saeed Sadr. Both translators were arrested and imprisoned for eight years in connection with their participation in a conference in Berlin in April 2000. The signatories appealed to the Iranian authorities to provide the assurance that the right of Khalil Rostam-Khani and Saeed Sadr to freedom of opinion and expression, and their right not to be detained for seeking to exercise that right would be respected.

14. The letter referred to the fact that the Special Representative was informed in April 2001 by a senior Iranian judge that no one was being tried merely for attending the Berlin Conference, but on other pending charges. He was later assured by a senior Iranian Judiciary official that legal action was under way to vacate all the convictions concerning participation in the Berlin Conference (see A/56/278, annex III, para. 3).

15. In a letter dated 25 September 2001, the Special Representative joined the Special Rapporteur on torture in drawing the Iranian authorities' attention to the case of Abbas Amir Entezam, who had been diagnosed with a severe prostate infection and scrotal oedema and was reportedly denied urgent medical treatment. Mr. Entezam was given a one-month temporary release from Evin prison shortly after, but was transferred back to the prison on 21 October despite a recommendation from the State physician that he should continue to receive medical treatment at home. Consequently, the Special Representative sent a new urgent appeal on 28 November 2001 appealing to the Iranian authorities to ensure that the right to physical and mental integrity of Mr. Entezam was protected.

16. On 18 October 2001, the Special Representative joined the Special Representative on human rights defenders and the Special Rapporteur on the independence of the judiciary in sending an urgent letter concerning the arrest and trial of Mr. Nasser Zarafchan, a human rights defender and a lawyer who was reportedly accused of having revealed irregularities in the sentence issued by a military tribunal in January 2001 concerning the murders of intellectuals in 1998, whose families he represented. The signatories referred to the Basic Principles on the Role of Lawyers and requested further information (see A/56/278, annex III, para. 5).

17. By letter dated 28 November 2001, the Special Representative drew the urgent attention of the Iranian authorities to the case of Akbar Mohammadi and Manuchehr Mohammadi. Both were arrested during the student demonstrations in Tehran in 1999 and according to the information received had started a hunger strike to protest their imprisonment and inhumane

treatment. The Special Representative expressed his concern that Manuchehr Mohammadi had been transferred to solitary confinement over the threats he had received from his jailer, and appealed to the Iranian authorities to ensure that his right to physical and mental integrity was protected.

18. On 4 December 2001, the Special Representative drew the urgent attention of the Iranian authorities to the reported disappearance of Siamak Pourzand on 24 November 2001. The Special Representative appealed to the Iranian authorities to seek clarification of the circumstances, with a view to ensuring that the right to physical and mental integrity of Mr. Pourzand was protected.

19. On the same date, the Special Representative referred to the cases of Mr. Kayvan Khalajabadi and Mr. Bihnam Mithaqi, two members of the Baha'i community who were arrested in April 1989 and sentenced to death on 8 December 1993 by the Islamic Revolutionary Court of Tehran. On humanitarian grounds, he appealed to the Iranian authorities to use all the means at their disposal to release the above-mentioned persons, who were convicted solely for their membership in the Baha'i faith and who had been in prison for the last 12 years.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report on the situation of human rights in Afghanistan, submitted by Mr. Kamal Hossain, Special Rapporteur, in accordance with Commission on Human Rights resolution 2001/13

Executive summary

This report will reflect the impact on the human rights situation of the dramatic developments that have taken place since the sixth report was presented to the United Nations General Assembly on 8 November 2001. The prolonged externally supported armed conflict involving warring factions which had been the root cause of the deteriorating human rights situation was replaced by a totally new situation. The tragic events of 11 September 2001 in the United States brought Afghanistan into central focus as suspected links were reported to exist between the perpetrators of those events and certain elements in Afghanistan. Demands were made of the Taliban regime to turn over those elements and, upon their refusal, military operations by an international coalition led by the United States commenced on 7 October, aimed at apprehending those elements and targeting the Taliban regime which was seen as harbouring them.

The Special Rapporteur undertook an emergency visit to Pakistan (Islamabad) and the Islamic Republic of Iran (Tehran, Zahedan and Zabol) from 22 to 30 October 2001 in order to assess the impact of the military operations on the human rights situation. On 7 November 2001, the Special Rapporteur was invited to brief the Security Council under the Arria formula. He reviewed developments which in certain respects had aggravated the humanitarian crisis, but at the same time had created opportunity and space for Afghans to become active

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participants in bringing about fundamental change. The Special Rapporteur visited Kabul from 6 to 8 January and was able to meet the Chairman of the Interim Administration, with two Vice-Chairpersons, the Minister for Foreign Affairs and the Minister of the Interior. He was also able to review the human rights situation with the Special Representative of the Secretary-General, Lakhdar Brahimi. The Special Rapporteur visited Iran and the western part of Afghanistan (Herat) from 15 to 22 February 2002. He interviewed refugees in Mashhad and internally displaced persons in Maslakh. In Herat, he held consultations with the Governor of Herat, United Nations agencies, non-governmental organizations and civil society members.

Following their rout all over northern Afghanistan on 12 November, the Taliban forces there concentrated mainly in Kunduz Province, having failed in their attempt to withdraw to southern Afghanistan. On 12 November, the United Front launched an offensive on the Shomali front, north of Kabul, entering Kabul on 13 November without a battle, since the Taliban had already abandoned the capital city.

The Special Rapporteur in his report to the General Assembly and in the press conference following his presentation of the report made urgent appeals for compliance with international humanitarian law, in particular in relation to the treatment of prisoners. Grave concern was expressed by international human rights organizations at the deaths which occurred at the Qala-i-Jangi fort and the circumstances surrounding the reported uprising of prisoners and the ensuing operations. The President of the International Committee of the Red Cross in his statement at the Afghanistan Support Group Conference in Berlin on 5 December 2001 stated that "all persons who surrender are entitled to a humane treatment regardless, in the case of Afghanistan, of whether they are Afghan Taliban or foreign fighters. This was true of Kunduz yesterday and remains true for Kandahar in the future". He further urged all parties in Afghanistan and members of the international coalition to respect the provisions of the Geneva Conventions. The Special Rapporteur on 21 December referring to these expressions of concern urged that inquiries be held into those incidents by the authorities concerned and corrective action taken. He underlined that it was important that the international action against terrorism be viewed as a campaign to uphold the international rule of law and that forces engaged in that campaign should be seen as complying with international humanitarian law. He urged all concerned to keep this in view, especially since increasing numbers of prisoners were expected to be taken in the coming days. It remains important to ensure that captured fighters continue to be treated in accordance with the Geneva Conventions and that any question regarding their status be determined by a competent tribunal as envisaged by those Conventions. So long as military operations continue, the Afghan population needs to be protected against their destructive impacts.

The Bonn Agreement was signed on 5 December 2001 after nine days of negotiations involving delegations representing various Afghan groups. This Agreement, in acknowledging the right of the people of Afghanistan to freely determine their political future, and defining as its basic objective "the establishment of a broad-based, gender-sensitive, multi-ethnic and fully representative government", recognizes human rights to be the key feature of the framework for change. The leadership of the Interim Administration reaffirmed its commitment to human rights, recognizing that "the most important thing for human beings is human rights". The constitution should secure the rights of all Afghans so that all ethnic groups can live in harmony.

For human rights to be restored it was necessary "to disarm the country" and to collect arms which were held by many groups under different local commanders and to establish a national legal order based on human rights and the rule of law. The support of the international community was important.

The 23-year conflict has left the Afghan economy devastated. The overwhelming majority of Afghans struggle to survive in miserable conditions. They are among the poorest and hungriest people in the world. Mass unemployment, widespread lack of purchasing power and lack of infrastructure and institutions undeniably make Afghanistan one of the most difficult places on earth to live. It is imperative to undertake a massive programme of national reconstruction. The urgent need to respond to the plight of the Afghan people is complicated by an extremely volatile operating and planning environment.

The Tokyo Conference on Afghan Reconstruction (January 2002) was expected to respond to the reconstruction and development needs of Afghanistan on a scale commensurate to the magnitude of devastation. The Conference concluded with pledges of around US$ 4.5 billion over the next five years. The pledges revealed some critical gaps.

Resources are most urgently needed for recruiting and developing a national police force which would play a critical role in meeting the need for security of person and property. This is universally recognized by all sections of the Afghan people to be the number one priority. There are reports from different parts of Afghanistan that, in the absence of a nationwide law enforcement capability, violent crimes are taking place, some of which are reported to be ethnically motivated, resulting in cross-border refugee flows, and a number of them are reported to be directed against women. The need to develop and deploy a national police force and, while this is being done, to expand the International Security Assistance Force (ISAF) from the 5,000 committed to around 30,000 for deployment in different parts of Afghanistan cannot be overemphasized.

A key change which the transition aims to bring about is the restoration of the rights of Afghan women who had been the targets of systematic discrimination denying them access to employment, education and health services. That the process of change has begun is reflected in the reopening of schools for girls and women returning to their normal jobs. Immediate measures were recommended in the January 2002 report of the Secretary-General on discrimination against women and girls in Afghanistan to the Commission on the Status of Women and may be commended for consideration and action by the Interim Administration.

The Afghan people have been exposed for more than two decades to the arbitrary use of force, recurrent massacres accompanying changes of control over territory, arbitrary detention, cruel, inhuman and degrading punishment, arbitrary and drastic restrictions of freedom of speech, freedom of movement and freedom of association, gender discrimination and discriminatory treatment of minorities within an authoritarian structure of governance and have suffered systematic deprivation of economic, social and cultural rights.

The highest priority in the programme for restoration of human rights is to replace the rule of the gun by the rule of law. Nearly all Afghans accord the highest priority to security which necessarily connotes establishing an environment for peace, ending past conflicts,

respecting human rights and providing for conflict prevention. Strategic and sustainable improvement of human rights is seen as a prerequisite for durable peace in Afghanistan. Priority tasks include laying the foundation for impartial and effective law enforcement, and establishing an independent judicial system and a national human rights commission empowered to protect the rights of all Afghans.

An important question is the accountability of those who were responsible in the past for committing massacres and similar serious human rights violations. A critical national policy decision needs to be taken regarding the perpetrators of those violations. The experience of other post-conflict societies offers a range of options, including prosecution of the perpetrators, establishment of a truth commission, and/or lustration/disqualification of the perpetrator from electoral office and/or public service. The option, or combination of options, which would be appropriate to the circumstances of Afghanistan would call for a national policy decision. The policy considerations which would need to be considered include: preventing future violations, deterring potential violators, responding to concerns of and claims for justice for victims and their families, securing reparation/compensation for them, and the important objective of national reconciliation. These are clearly questions upon which the Afghans will need to deliberate within the framework of the Bonn Agreement in order to forge a national policy aimed at establishing enduring peace and an environment of security based on respect for human rights.

An integrated approach is imperative given the existing conditions in Afghanistan. The restoration of the rule of law, the protection of the right to life and personal security, the right to property, and the right to move freely and transport goods throughout the country are critically necessary for the economy to be regenerated, for agriculture to revive, for trade to resume, for markets to function, for employment opportunities to be promoted and for access to be afforded to housing, education and health facilities. The international community needs to commit itself, resolutely and with a sense of solidarity, to supporting the people of Afghanistan in meeting the challenge of national reconstruction which faces them.

I. INTRODUCTION

1. This is the seventh report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in Afghanistan. This report will reflect the impact on the human rights situation of dramatic developments that have taken place since the sixth report (A/56/409 and Add.1) was presented to the General Assembly on 8 November 2001. The prolonged externally supported armed conflict involving warring factions which had been the root cause of the deteriorating human rights situation was replaced by a totally new situation. The tragic events of 11 September 2001 in the United States brought Afghanistan into central focus as links were reported to exist between their perpetrators and certain elements in Afghanistan. Demands were made of the Taliban regime to turn over those elements and, upon their refusal, military operations by an international coalition led by the United States commenced on 7 October, aimed at apprehending those elements and targeting the Taliban regime which was seen as harbouring them. The President of the United States of America on 12 October 2001 declared that the war against global terrorism was not a war on the people of Afghanistan, stating that the Afghan people were victims of oppression and misrule and that there were very few places on earth that faced greater misery.

2. The Special Rapporteur had made an emergency visit to Pakistan (Islamabad) and to the Islamic Republic of Iran (Tehran, Zahedan and Zabol) between 22 and 30 October 2001 in order to assess the impact of the military operations on the human rights situation. In the addendum to his report to the General Assembly he reported on the impact of the air strikes that had resulted in significant internal displacement from the cities and the loss of civilian lives and property.

3. On 7 November 2001, the Special Rapporteur was invited to brief the Security Council (on the basis of the Arria formula). He had reviewed developments which in certain respects had aggravated the humanitarian crisis, but had at the same time created an opportunity and a space for Afghans to become active participants in bringing about fundamental change. He underlined that the United Nations was expected to play a vital role in facilitating a transition from war to peace and in enabling the Afghan people to engage themselves in an inclusive participatory process to devise and implement a comprehensive political plan. The aim of the political plan would be to restore a unified Afghanistan to all of its people within a framework which would restore their human rights, long denied to them, and fulfil their legitimate expectation to live in freedom and dignity in peace in a society where the rule of law would protect their lives and livelihoods against violence and the depredations of powerful warlords. He also urged the international coalition to keep its military operations under review in order to ensure that they complied with international humanitarian law and demonstrated that they were truly intended to uphold the international rule of law.

4. A particular matter to which attention both of the Security Council and the General Assembly was drawn was the urgent need for internal security arrangements under the United Nations umbrella to protect the civilian population in areas where the Taliban regime was likely to lose control. Past experience had shown that such loss of control over territory was invariably accompanied by massacres. It was therefore urged that all parties be warned against committing any form of summary execution or other human rights violations as no one could be expected to enjoy immunity as they had in the past.

5. The Special Rapporteur visited the Islamic Republic of Iran and the western part of Afghanistan (Herat) from 15 to 22 February, 2002. He interviewed refugees in Mashhad and internally displaced persons (IDPs) in Maslakh. In Herat, he held consultations with the Governor of Herat, United Nations agencies, non-governmental organizations and civil society members.

II. MILITARY AND POLITICAL DEVELOPMENTS

6. The assassination of Commander Ahmad Shah Massoud of the United Front on 9 September and the terrorist attacks on the United States two days later added a new dimension to action against the Taliban. Following Commander Massoud's death and an unsuccessful Taliban attack on the Farkhar Gorge on 12 September, the level of fighting between the warring sides declined significantly until, late in September, General Dostum's forces launched an offensive in Balkh Province, while other United Front forces went on the offensive in Takhar Province, north of Taloqan.

7. Military operations by the United States-led coalition forces commenced with intense air strikes on 7 October. The first week of precision engagement was conducted by night, targeting mainly air defence and command centres. This was followed by daytime flights, still with the same objectives but shifting to "search and destroy" tactics. Latterly, the United States-led coalition conducted strikes against concentrations of Taliban troops along the main confrontation line.

8. On 9 November, United Front forces under the command of General Dostum, Atta Mohammad and Commander Mohaqqeq pushed forward towards Mazar-i-Sharif and captured the city on 10 November. United Front forces launched simultaneous offensives along the main confrontation line in northern Afghanistan and in the areas of Khwajaghar, Farkhar Gorge near Taloqan and Eshkamesh in Takhar Province, and Chal, Baghlan, Nahrin and Pul-i-Khumri in Baghlan Province. The United Front successfully captured all of these areas, as well as Aibak (the capital of Samangan Province) and Bamyan Province as a result of the defection of Taliban commanders. General Dostum's troops continued on the offensive, taking the river port of Hairatan, north of Mazar-i-Sharif, and the city of Sheberghan, capital of Jowzjan Province. On 11 November they seized the capital of Faryab Province, Meymaneh. United Front fighters located on the islands of the Panj River captured both the district of Emam Saheb and the river port of Sher Khan in Kunduz Province.

9. Following their rout all over northern Afghanistan on 12 November, the Taliban forces there concentrated mainly in Kunduz Province, having failed in their attempt to withdraw to southern Afghanistan. Also on 12 November, the United Front continued to press forward, capturing Herat city and Ghowr Province.

10. On 12 November, the United Front launched an offensive on the Shomali front, north of Kabul, entering Kabul on 13 November without a battle, since the Taliban had already abandoned the capital city.

11. Taliban forces continued to retreat from various areas in the north and to concentrate in Kunduz, which was to be their last stronghold in the north. The Special Rapporteur in his report to the General Assembly and at the press conference following his presentation of the report made urgent appeals for compliance with international humanitarian law, in particular in relation to the treatment of prisoners. All parties were urged to refrain from any form of summary execution. In relation to Kunduz, the Special Rapporteur urged that every effort be made to achieve a negotiated surrender and that the prisoners captured be treated humanely. On 24 November, a surrender was negotiated of several hundred Taliban fighters from Kunduz. A substantial number of those who had surrendered were removed to the Qala-i-Jangi fort near Mazar-i-Sharif.

12. Qala-i-Jangi was to prove to be a disaster as a detention site. According to some eyewitness reports, an eruption of violence was sparked on 25 November in the course of questioning of some of the prisoners by two Central Intelligence Agency agents. A series of violent events involving the shooting of prisoners and the killing of one of the two CIA agents escalated into widespread violence. Reports spoke of a prisoner uprising and of military operations extending over three days involving massive use of force by coalition forces which included air strikes. These operations ended in the death of several hundred prisoners inside the fort. Over 200 were reportedly buried by the International Committee of the Red Cross. The President of the International Committee of the Red Cross in his statement at the Afghanistan Support Group Conference in Berlin on 5 December 2001 stated that "all persons who surrender are entitled to humane treatment regardless, in the case of Afghanistan, of whether they are Afghan Taliban or foreign fighters. This was true of Kunduz yesterday and remains true for Kandahar in the future". He further urged all parties in Afghanistan and members of the international coalition to respect the provisions of the Geneva Conventions.

13. Grave concern was expressed by international human rights organizations at the deaths which occurred in Qala-i-Jangi and the circumstances surrounding the reported uprising of prisoners and the ensuing operations. On 21 December the Special Rapporteur, referring to these expressions of concern, urged that inquiries should be held on the reported incidents by the authorities concerned and corrective action taken. He underlined that it was important that the international action against terrorism be viewed as a campaign to uphold the international rule of law and that forces engaged in that campaign should be seen as complying with international humanitarian law. He urged that all concerned should keep this in view, especially since increasing numbers of prisoners were expected to be taken in the coming days.

14. Even as the Taliban forces lost control over most of Afghanistan and the military operations were concentrated on areas where remnants of the Taliban forces and non-Afghan fighters were reported to be active, air strikes continued. Serious concern was expressed as civilian casualties were caused by some of these air strikes. A convoy of community leaders reportedly on their way to attend the inauguration of the Interim Administration in Kabul on 22 December was struck near Gardez (Paktia Province), resulting in over 60 deaths. Another air strike on 27 December in eastern Paktia province reportedly caused the death of about 40 civilians, wounding 60 and destroying 25 houses. On 9 January, an air strike in Qalai-Niazi north of Gardez caused the death of civilians, many of them members of a wedding party. The death toll ranged from 52 to 100. On 24 January in a ground operation in Uruzgan at night, there

were reportedly 21 civilian deaths and compensation was distributed, apparently acknowledging that these civilian casualties were the result of error, presumably owing to faulty intelligence. There are suggestions that malicious "tip-offs" are supplied in order to target enemies in personal feuds.

15. So long as military operations continue, the Afghan population needs to be protected against their destructive impacts. This will require constant reiteration of the need to comply with international humanitarian law so that maximum care is exercised to avoid civilian casualties and protect them from unexploded ordnance, which remains scattered throughout Afghanistan. At the same time, prisoners must be treated humanely. It is important to ensure that captured fighters continue to be treated in accordance with the Geneva Conventions and that any question regarding their status be determined by a competent tribunal, as envisaged in those Conventions. The conditions of detention of prisoners in various detention centres is a source of concern. Reports of outbreaks of disease and harsh conditions of detention in Sheberghan prison where several thousand prisoners are detained call for urgent measures to improve those conditions and for best efforts to be made to comply with the requirements of humane treatment. The Special Rapporteur had suggested that a visit to that prison be included in the programme of his proposed visit to Afghanistan in February, but weather conditions led to the postponement of the visit.

Political developments

16. Intensive high-level diplomatic activity parallel to the military operations which were causing the disintegration of the Taliban regime was aimed at devising a political alternative to the Taliban. The Secretary-General chaired a high-level meeting of the six plus two group at United Nations Headquarters on 12 November 2001. The ministers and other senior representatives of the six plus two endorsed the Secretary-General's proposal to convene an urgent meeting of the Afghan parties under the auspices of the Special Representative, Lakhdar Brahimi, and issued a joint statement in which they welcomed the central role of the United Nations in developing a political alternative to the Taliban regime. They pledged their continued support for the efforts of the Afghan people to find a political solution to the Afghan crisis and agreed that there should be established in Afghanistan a broad-based, multi-ethnic, politically balanced, freely chosen Afghan administration representative of the aspirations of the Afghan people and at peace with its neighbours. It was also underlined that such an administration must be able to meet the needs of the Afghan people and respect human rights, regional stability and Afghanistan's international obligations, including the suppression of trade in narcotics. The statement further welcomed efforts to create such an administration by Afghans, both from within Afghanistan and from among the Afghan diaspora.

Bonn Conference and Agreement

17. A conference was convened on 27 November 2001 near Bonn of delegations representing different Afghan groups including the Northern Alliance and exiled groups, (including one affiliated with the country's former King, Mohammad Zaher Shah). The Special Rapporteur spent a day in Bonn when he met the Special Representative of the Secretary-General and a number of participants. He conveyed to them the importance of making effective provisions in the agreement for the protection of the human rights of the Afghan

people. After nine days of negotiations, an agreement (the Bonn Agreement) was concluded on 5 December 2001 which was signed by 25 signatories on behalf of the Afghan participants and witnessed for the United Nations by the Special Representative of the Secretary-General.

18. The Bonn Agreement reaffirms the independence, national sovereignty and territorial integrity of Afghanistan. It acknowledges the right of the people of Afghanistan to freely determine their own political future. It establishes interim arrangements as a first step towards the establishment of "a broad-based, gender-sensitive, multi-ethnic and fully representative government". It further recognizes that some time may be required for a new Afghan security force to be fully constituted and functional, and therefore sets out security provisions in its annex I which envisages a request to the United Nations Security Council to consider authorizing the early deployment to Afghanistan of a United Nations-mandated force to assist in the maintenance of security for Kabul and surrounding areas. Such a force could, as appropriate, be progressively expanded to other urban centres and other areas.

19. The Bonn Agreement in its preamble affirms the determination to end the tragic conflict in Afghanistan and to promote national reconciliation, lasting peace, stability and respect for human rights in the country. Article II defines the legal framework by stipulating that existing laws would be applicable to the extent that "they are not inconsistent with the Bonn Agreement or with international legal obligations to which Afghanistan is a party". Article V (2) expressly states that the Interim Authority and the Emergency Loya Jirga shall act in accordance with basic principles and provisions contained in international instruments on human rights and international humanitarian law to which Afghanistan is a party. Annex II to the Agreement defines the role of the United Nations during the interim period. Inter alia, it provides that the Special Representative shall monitor and assist in the implementation of all aspects of the Agreement. It also states that the United Nations shall have the right to investigate human rights violations and, when necessary, recommend corrective action. It will also be responsible for the development and implementation of a programme of human rights education to promote respect for and understanding of human rights.

Human rights as a key feature of the framework for change under the Bonn Agreement

20. The Bonn Agreement, in acknowledging the right of the people of Afghanistan to freely determine their political future and defining as its basic objective "the establishment of a broad-based, gender-sensitive, multi-ethnic and fully representative government", recognizes human rights to be the key feature of the framework for change: political development to be based on the implementation of civil and political rights and economic reconstruction and development to be based on the progressive implementation of economic, social and cultural rights. Human rights, therefore, are central to the purposes and functions of the United Nations under the Agreement. It would thus be expected to integrate human rights fully into its humanitarian, reconstruction and political activities and to assist in the building of sustainable institutions of human rights, democracy and the rule of law.

Kabul consultations: Special Rapporteur's visit (6-8 January 2002)

21. The Special Rapporteur in the course of his visit to Kabul from 6 to 8 January (the third week in office of the Interim Administration) was able to meet the Chairman of the Interim

Administration, Mr. Hamid Karzai, the Vice-Chairman of the Administration and Minister for Women's Affairs, Dr. Sima Samar, the Vice-Chairman and Minister of Planning, Haji Muhammad Mohaqqeq, the Minister of Foreign Affairs, Dr. Abdullah Abdullah, and the Minister of the Interior, Mr. Mohammad Yunus Qanooni. He was also able to review the human rights situation with the Special Representative of the Secretary-General.

22. The Chairman and other members of the Interim Administration were conscious of the historic opportunity to rebuild Afghanistan anew, not only in physical terms but also to rebuild the institutions which would provide to the Afghan people the benefits of democracy, human rights and the rule of law. They all emphasized that the people yearned for security. That required building national capacity to replace the rule of the gun by the rule of law, which in turn required building up a national police force, for which resources were urgently needed. Importance was also attached to the International Security Assistance Force which is now available to assist with security functions in and around Kabul, and will be expanded to provide similar assistance wherever needed throughout the country. It was recognized that reconstruction must be viewed comprehensively so as to embrace political, social, human rights, institutional and cultural dimensions.

23. The leadership reaffirmed their commitment to human rights, recognizing that "the most important thing for human beings is human rights". The constitution must secure the rights of all Afghans so that all ethnic groups can live in harmony. For human rights to be restored it was necessary "to disarm the country", collecting the arms that were held by many groups under various local commanders and establishing a national legal order based on human rights and the rule of law. The support of the international community was important. The Interim Administration, which was committed to upholding the national interest, was ready to engage constructively with the international community in achieving the common objectives of peace and stability.

24. The Special Rapporteur underscores that all agreed that the programme of national reconstruction must be owned and driven by the Afghan people. The international community must facilitate and provide resources to enable the Afghan people to secure their national objectives. The signatories to the Geneva Accords of 1988 which had pledged to enable all segments of the Afghan people to rebuild the Afghan State through establishing a broad-based, multi-ethnic, truly representative government had failed to fulfil that pledge. After more than a decade, the Bonn Agreement was seen as an effective and credible commitment by the international community to support the Afghan people in their resolve to establish "a broad-based, gender-sensitive, multi-ethnic and fully representative government" within a unified Afghanistan.

III. THE CHALLENGE OF RECOVERY AND DEVELOPMENT

25. A massive programme of national reconstruction is an imperative. The situation faced by approximately 24 million Afghans in Afghanistan and the more than 4 million Afghan refugees living in neighbouring countries continues to be one of the most desperate in the world. The overwhelming majority of Afghans struggle to survive in miserable conditions. They are among the poorest and hungriest people in the world. The urgent need to respond to their plight is complicated by an extremely volatile operating and planning environment. The elements that

characterize that environment are: (a) a rapidly changing political setting; (b) variable security conditions; (c) limited physical access to many areas within the country owing to poor infrastructure, mountainous terrain and the threat of mines and unexploded ordnance; (d) an extremely limited absorptive and implementation capacity.

Human needs

26. Some features of the current situation faced by Afghans are summarized below.

27. Afghans have suffered an abysmal human rights situation for decades. There are particular concerns for children, women and minorities, as well as specific protection concerns faced by civilians as a direct result of military or other action.

28. Egregious acts of violence have been perpetrated against women. Women and girls have been excluded from educational opportunities and access to employment.

29. Half of all Afghan children suffer from chronic malnutrition, and one out of every four children dies before reaching the age of five.

30. There are some 4 million Afghan refugees of whom 80 per cent are women and children.

31. Approximately 6 million Afghans, including over 1 million IDPs and 4.7 million other vulnerable people, are in need of humanitarian assistance.

32. The maternal mortality rate is the second highest in the world with an estimated 16,000 women dying each year from pregnancy-related causes.

33. Afghanistan's grain production has fallen by more than 50 per cent in the past two years, its livestock herds are severely depleted and its irrigation systems extensively damaged.

34. Only 23 per cent of the population has access to safe water and only 12 per cent to adequate sanitation; 6 per cent of Afghans had access to electricity in 1993, one of the lowest rates in the world.

35. There are 2 telephones per 1,000 people (compared to 24 in Pakistan, 35 in Tajikistan and 68 in Uzbekistan).

36. The primary road network has seriously deteriorated - 1,700 km of the 3,000 km of roads needs rebuilding.

37. Fifty per cent of the urban housing stock has been destroyed or damaged in the major cities.

38. Widespread environmental degradation disproportionally affects the rural poor and women.

39. Three years of drought and the onset of winter have further eroded already stretched coping mechanisms. A fourth year of drought is now a possibility with the late onset of rain and snow.

40. Over 800 km^2 of land cannot be put to productive use because of contamination by landmines and unexploded ordnance (UXO), while 150 to 300 new casualties occur each month as a result of mine/UXO accidents. Information provided by coalition forces indicated that 244,420 "submunitions" were dropped in 103 submunition strike areas. According to initial ground assessments apparently 10 per cent (more than 24,000) have failed to explode and are lying in the ground and are potentially deadly. The current allocation of US$ 7 million to the United Nations mine action programme in Afghanistan is thought to be grossly inadequate. According to expert opinion, the budget would have to be doubled from $20 million to $43 million annually in order to respond to the new and more complicated additional task of UXO clearance.

41. The 23-year conflict has left the Afghan economy devastated. Agriculture, on which about 85 per cent of the population are directly dependent, has to recover from the effects of the prolonged conflict and four successive years of drought. Mass unemployment, widespread lack of purchasing power and lack of infrastructure and institutions undeniably make Afghanistan one of the most difficult places on earth to live.

Tokyo Conference

42. The Tokyo Conference on Afghan Reconstruction (January 2002) was expected to respond to the reconstruction and development needs of Afghanistan on a scale commensurate to the magnitude of the devastation. Estimates had placed the requirements at US$ 15 to 45 billion over a 10-year period. The Conference concluded with pledges of around US$ 4.5 billion over the next five years. The pledges revealed some critical gaps.

43. While there was a need to lay the foundations for the revival of the economy to meet long-term development needs, there is an urgent need for funds to enable the Interim Administration to meet immediate humanitarian and security needs. Without adequate resources, the Interim Administration risks losing credibility and being unable to extend its authority elsewhere in the country, thereby undermining the long-term chances of the peace process.

Effective law enforcement to protect human rights

44. Resources are most urgently needed for recruiting and developing a national police force which would play a critical role in meeting the need for security of person and property. This is universally recognized by all sections of the Afghan people to be the number one priority. There are reports from different parts of Afghanistan that, in the absence of a nationwide law enforcement capability, violent crimes are occurring some of which are reported to be ethnically motivated, resulting in cross-border refugee flows, and a number of them directed against women. A particularly disturbing incident was the assault on the Transport Minister at

Kabul airport in mid-February 2002, resulting in his death. The need to develop and deploy a national police force and, while this is being done, to expand the International Security Assistance Force (ISAF) from the 5,000 committed to around 30,000 for deployment in different parts of Afghanistan cannot be overemphasized.

Women's rights

45. A key change which the transition aims to bring about is the restoration of the rights of Afghan women, who had been the targets of systematic discrimination denying them access to employment, education and health services. That the process of change has begun is reflected in the reopening of schools for girls and women returning to their normal jobs. This was evident in Kabul and Herat. For the first time in five years, women throughout Afghanistan participated in university examinations. In Kabul, of the 3,000 people who took examinations for entrance to the university, 500 were women.

46. Even before 1979, Afghanistan was one of the poorest countries in the world with high maternal and child mortality rates and a very low literacy rate for women. Future plans and programmes for reconstruction and development of Afghanistan with particular emphasis on women's rights require an understanding of the country's past as well as its traditions and customs. Special attention should therefore be directed at the promotion and protection of the human rights of women and girls in Afghanistan, including the right to non-discrimination with regard to sex, age, religion, ethnicity, disability and political affiliation. Women's effective participation in civil, cultural, economic, political and social life should be promoted and protected throughout the country, including the right to life; respect for the right of women to work; the rights to education and to security of person; freedom of movement and association; freedom of opinion and expression; and the right to equal access to facilities necessary to protect their right to the highest attainable physical and mental health.

47. Immediate measures recommended to the Afghan Interim and Transitional Authorities by the Secretary-General in his report to the Commission on the Status of Women on discrimination against women and girls in Afghanistan (E/CN.6/2002/5 dated 24 January 2002) which may be commended for consideration and action by the Interim Administration include the following:

(a) To ensure full support for the participation of women in the Special Commission to convene the Emergency *Loya Jirga* and in the *Loya Jirga* itself;

(b) To support fully the activities of the Ministry for Women's Affairs;

(c) To ensure that all line ministries employ women, develop capacity to mainstream a gender perspective in their programmes, and that an inter-ministerial machinery is established to that end;

(d) To ensure that women are well represented as members of the Judicial Commission, the Civil Service Commission and the Human Rights Commission, and that a gender perspective is taken into consideration when developing the mandates of these commissions;

(e) To ensure that the work of the Human Rights Commission is underpinned by international human rights standards, including the Convention on the Elimination of All Forms of Discrimination against Women, and integrates women's rights in its mandate;

(f) To ensure a safe environment free from violence to facilitate women's participation and the return of refugees;

(g) To take urgent measures to repeal all edicts and orders that discriminate against women and to end all forms of discrimination against women;

(h) To study and analyse the impact on women and girls of the existing legal system, including with regard to family law, divorce, property and inheritance rights;

(i) To apply temporary special measures, including targets and quotas, targeted at Afghan women to accelerate the de facto equality of women and men in decision-making;

(j) To take steps towards ratifying the Convention on the Elimination of All Forms of Discrimination against Women, in accordance with the Beijing Platform for Action and the outcome document of the twenty-third special session of the General Assembly;

(k) To ensure the full participation of women in the assessment of short-, medium- and long-term priorities in all sectors.

IV. RECOMMENDATIONS

Overall strategy for promotion and protection of human rights

48. The highest priority in the programme for restoration of human rights would be to replace the rule of the gun by the rule of law. The consensus expressed by nearly all Afghans accords the highest priority to security which necessarily connotes establishing an environment for peace, ending past conflicts, respect for human rights and providing for conflict prevention. Among other specific measures and activities the United Nations could be expected to promote dialogue among parties with potentially conflicting interests, establish mechanisms for peaceful resolution of disputes and grievances, promote tolerance and policies to reduce divisiveness and institute programmes for peace education. The strategic and sustainable improvement of human rights is seen as a prerequisite for durable peace in Afghanistan. Priority tasks would include laying the foundation for impartial and effective law enforcement and establishing an independent judicial system and a national human rights commission empowered to protect the rights of all Afghans.

49. Pressing human rights issues include the need to address the deep-rooted discriminatory attitudes and practices that serve to marginalize women and minorities. Effective action would need to be taken to curb lawlessness, arbitrary military or police action and abuses that may undermine the protection of at-risk civilians including IDPs, refugees and others.

50. Specific steps would need to be taken to assess existing capacity, to provide support to the Interim Government and to the general public to improve understanding of human rights, and

to build the capacity necessary to give effect to the human rights provisions of the Bonn Agreement, and in particular to provide necessary assistance in setting up the Human Rights Commission and in dealing with human rights aspects of other commissions such as the Judicial Commission.

51. The Afghan people have been exposed over more than two decades to the arbitrary use of force; recurrent massacres accompanying changes of control over territory; arbitrary detention; cruel, inhuman and degrading punishment; arbitrary and drastic restrictions of freedom of speech, freedom of movement and freedom of association; gender discrimination; and discriminatory treatment of minorities within an authoritarian structure of governance, and have suffered systematic deprivation of economic, social and cultural rights. Fear was pervasive, life and personal security were precarious, redress for violations illusory, and the right to food, access to education and health, and access to employment were denied to women and men. But the situation for women was greatly aggravated by the special edicts which prohibited women from access to employment, access to health services and access to education, which could be regarded as systematic persecution of women. The civil war and the militarization of society fostered a culture of violence against women and girls which is likely to continue to affect them during the transitional period. Special measures need to be taken to protect women and girls from forced marriages and all other forms of violence and sexual abuse. Special recommendations relating to measures to improve the overall situation regarding women's rights are set out in paragraph 47 above.

52. The basic task of restoring human rights to the Afghan people is thus especially challenging and complex. Afghanistan has all along been a party to the principal human rights instruments. No reporting, however, took place and there was no meaningful compliance with the obligations assumed under them. The Bonn Agreement commits the transitional process and its mechanisms to fulfil those obligations and to rescue Afghans from the appalling situation they have endured for so long. The past environment of fear, anxiety and insecurity is to be replaced by one which offers a sense of security and hope and restores human dignity.

53. At the outset it needs to be recognized that just as prolonged conflict was identified as the root cause of the crisis of human rights, the single biggest threat today, the most formidable barrier to the realization of human rights, is scarcity of resources. The resources pledged in Tokyo need to be delivered urgently, and additional resources need to be mobilized. Innovative initiatives might include possible public-private partnerships and a trust fund aimed at providing resources for the protection and promotion of human rights.

54. The transitional process needs to address the challenge presented by "warlords" and the negative legacies of the past when the future constitutional dispensation comes up for consideration. The establishment of a government, based on free and fair elections, being the goal, the electoral process must be free from intimidation and influence by the wealthy and powerful. Provisions may need to be made for electoral disqualification (lustration) of major perpetrators of atrocities and gross violations of human rights. Such disqualifications may also apply to persons who may be found to have violated provisions which may be made in any code of conduct prohibiting maintenance of private armies, or acquiring wealth through trafficking in drugs or women, smuggling, or the commission of similar major economic crimes.

55. A related question is that of the accountability of those who were responsible in the past for committing massacres and similar serious human rights violations. Over a period of more than two decades the conflict that devastated Afghanistan was marked by massacres of civilian populations, rape, abduction of women and children, and the destruction of property including irrigation systems, fruit orchards and other means of subsistence. A critical national policy decision needs to be taken regarding the perpetrators of those violations. This decision would need to be reflected in the emerging constitutional and legal order.

56. The experience of other post-conflict societies offers a choice of options ranging from prosecution of the perpetrators, to establishment of a truth commission, to lustration/disqualification of the perpetrators from electoral office and/or public service. The option or combination of options which would be appropriate to the circumstances of Afghanistan would call for a national policy decision. The policy considerations which would need to be considered include: preventing future violations, deterring potential violators, responding to concerns of and claims for justice of victims and their families, reparation/compensation to them, and the important objective of national reconciliation. These are clearly questions upon which the Afghans will need to deliberate within the framework of the Bonn Agreement in order to forge a national policy aimed at establishing enduring peace and an environment of security based on respect for human rights.

57. An integrated approach is imperative given the existing conditions in Afghanistan. The restoration of the rule of law and the protection of the right to life and personal security, the right to property, and the right to move freely and transport goods throughout the country are critically necessary to enable the economy to be regenerated, for agriculture to revive, for trade to resume, for markets to function, for employment opportunities to be promoted and for access to be afforded to housing, education and health facilities.

58. The international community needs to commit itself resolutely and with a sense of solidarity to supporting the people of Afghanistan in meeting the challenge of national reconstruction which faces them.

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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report of the Special Rapporteur, Andreas Mavrommatis, on the situation of human rights in Iraq*

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* The executive summary of this mission report and the Special Rapporteur's conclusions and recommendations are being circulated in all official languages. The report itself is contained in the annex to the executive summary and is being circulated in the language of submission and Arabic only.

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Executive summary

A significant breakthrough was achieved in the context of the relations with the Government of Iraq when the Government, in January 2002, announced that it would accept a visit to Iraq by the Special Rapporteur, who eventually undertook a mission to the country from 11 to 15 February 2002.

During the mission to Iraq the Special Rapporteur met with various government ministers, government officials, religious dignitaries, representatives of United Nations programmes and agencies, politicians and others. The Special Rapporteur also visited two prisons, a hospital for children, a local school, a food distribution outlet, as well as religious sites.

The Special Rapporteur appreciates this positive response from the Government to his repeated requests for a visit. He sees this initial mission as an exploratory one, the main purpose of which was to set the stage for future cooperation. Owing to the short notice prior to the mission, as well as the short duration of the visit, the Special Rapporteur decided that only a limited number of pre-selected human rights issues could be raised.

The Special Rapporteur is pleased that contacts with the Government were established and that mechanisms and procedures for communications with the Government regarding allegations of violations of human rights were put in place during the mission. The success of the dialogue will depend on the continued cooperation of the Government. The ultimate measure of success will be the successful implementation of recommendations submitted by the Special Rapporteur.

The Special Rapporteur also undertook a mission to Iran in January 2002 to collect information on human rights violations allegedly committed by the Government of Iraq. In addition, the Special Rapporteur continued to receive from various sources a number of written allegations of human rights violations. Allegations of violations committed by the Government covered a very broad range of issues, including arbitrary and extrajudicial execution, cruel, degrading and inhuman treatment and punishment, restrictions on religious and political freedom, forced displacement of ethnic minorities and "arabization", and forced military recruitment. The Special Rapporteur plans to investigate these allegations further in the context of the new mechanisms and procedures established with the Government of Iraq in this regard.

Conclusions and recommendations

The Special Rapporteur is encouraged by progress so far in establishing a constructive dialogue on human rights with the Government of Iraq and wishes to express his appreciation to the Government for accepting the first mission of the Special Rapporteur since his appointment in 1999.

The Special Rapporteur wishes to stress that the success of this dialogue will depend on the continued cooperation of the Government, including through the provision of detailed replies to allegations of human rights violations transmitted by the Special Rapporteur, as well as through future visits by the Special Rapporteur to Iraq. The ultimate measure of success will be the successful implementation of recommendations submitted by the Special Rapporteur.

The Special Rapporteur wishes to reiterate his recommendations that all humanitarian concerns should be kept under constant review and necessary adjustments should continue to be made to ensure that the humanitarian needs and the long-term adverse effects of the embargo are addressed and the suffering of the people is alleviated.

Furthermore, the Special Rapporteur, whilst reiterating recommendations made in his previous reports, wishes to make the following recommendations stemming from the information collected and processed during the reporting period.

The Special Rapporteur urges the Government of Iraq to dispatch as soon as possible the documentation and information requested by him during meetings with the Minister of Foreign Affairs and with other ministers and officials, as noted above, and to make immediate arrangements for the continuation of the dialogue.

The Special Rapporteur reiterates his recommendation to the Government that a moratorium on executions be implemented immediately.

The Special Rapporteur repeats his call on the Government of Iraq to reduce the number of crimes that carry the death penalty, including the crime of trafficking of women and the exploitation of women for prostitution.

The Special Rapporteur also urges the Government to improve considerably the conditions on death row and to take urgent measures to improve the general conditions in Abu Ghraib prison, even prior to the construction of new prison buildings, through amnesties and the substitution of other sentences for imprisonment (fines, community service, conditional discharge, bail, etc.). The Special Rapporteur also urges the Government to establish a system of independent prison visitors to ensure that the human rights of prisoners are respected.

With regard to freedom of religion, the Special Rapporteur urges the Government:

(a) To respect the freedom of religion and freedom of movement of all Shia clerics; and

(b) To examine sympathetically the issues raised by the leaders of the Christian community, as outlined above.

The Special Rapporteur urges the Government to facilitate in every respect continuation of the dialogue by ensuring that the focal point at the Ministry of Foreign Affairs has everything that is required in order that it may respond promptly and adequately to requests and recommendations by the Special Rapporteur.

The Special Rapporteur urges the Government to abolish the Special Courts and ensure that the rule of law is respected everywhere and at all times in Iraq in accordance with Iraq's freely undertaken obligation under international human rights instruments.

The Special Rapporteur urges the Government to ensure that no policies or practices of discrimination against ethnic or religious groups are carried out in Iraq, and to investigate allegations of human rights violations relating to the issue of arabization.

Annex

REPORT OF THE SPECIAL RAPPORTEUR, ANDREAS MAVROMMATIS, ON THE SITUATION OF HUMAN RIGHTS IN IRAQ

I. INTRODUCTION

1. The present report of the Special Rapporteur on the situation of human rights in Iraq, Andreas Mavrommatis, is submitted to the Commission on Human Rights at its fifty-eighth session pursuant to paragraph 5 (a) of Commission on Human Rights resolution 2001/14 of 18 April 2001. The mandate of the Special Rapporteur was originally established by the Commission in resolution 1991/74 of 6 March 1991, and extended in subsequent resolutions.

2. This report should be read in conjunction with the interim report of the Special Rapporteur to the General Assembly (A/56/340), as well as previous reports of the Special Rapporteur to the Commission on Human Rights and the General Assembly. Unless stated otherwise, the report covers the period from 15 July 2001 to 20 February 2002.

3. At the outset it should be noted that during the reporting period a significant breakthrough in relations with the Government of Iraq was achieved, as the Government agreed to a short visit by the Special Rapporteur to the country. The visit took place from 11 to 15 February 2002. This visit was the first visit to Iraq by the current Special Rapporteur and the second visit to take place since the Commission on Human Rights established the mandate in 1991. The first mission to Iraq was undertaken in 1992 by the previous Special Rapporteur, Mr. Max van der Stoel.

4. However, prior to January 2002 when the Government of Iraq first informed the Special Rapporteur that it would accept a visit, and as no concrete indications had been forthcoming from the Government during 2001 with regard to a visit or establishing closer links, the Special Rapporteur decided, in accordance with his mandate, to conduct a mission to the Islamic Republic of Iran to collect information from various sources on alleged human rights violations committed by the Government. This mission eventually took place in January 2002.

5. Shortly prior to his departure for Iran, the Special Rapporteur received indications from Iraqi diplomatic representatives, that the Government of Iraq would accept a visit of a few days, most likely sometime in early February. Upon his return from Iran, by letter of 21 January 2002, the Permanent Mission of Iraq to the United Nations Office at Geneva informed the Special Rapporteur that the Government would accept a visit by the Special Rapporteur from 8 to 11 February. The Special Rapporteur travelled to Geneva for a few days at the end of January and had a series of meetings with Iraqi diplomatic representatives to discuss the modalities of the visit. As eventually agreed, the visit took place from 11 to 15 February 2002.

6. In addition, during the reporting period, the Special Rapporteur continued to receive several written allegations of violations of human rights in Iraq. In particular, immediately prior to his visit to Iraq a significant number of these allegations were received. The Special Rapporteur also maintained contact with various agencies and programmes of the United Nations, the International Committee of the Red Cross and international and Iraqi non-governmental organizations.

7. Given the particular nature of events during the reporting period, the Special Rapporteur would like to stress that this report is not and was not meant to be a full investigative report. It should be noted that both the short notice, which did not permit sufficient time for thorough preparation, as well as the brief duration and exploratory nature of the visit to Iraq, which did not allow for a complete covering of issues that had accumulated over several years, did not make it possible to have a complete report on the situation of human rights in Iraq. Furthermore, as the main aim of the mission was to establish a framework for closer cooperation with the Government, the Special Rapporteur believes it appropriate, in this report, to focus attention on the visit itself, and on any progress achieved with a view to arriving eventually at a more complete insight into the situation of human rights in Iraq.

II. MISSION TO IRAQ

8. As the Special Rapporteur has reported previously, in particular in his most recent report to the General Assembly (A/56/340), he has invested considerable efforts in establishing a *rapport* and dialogue with the Government of Iraq. As previously stated, the Special Rapporteur conceives his mandate as not only containing a reporting role, but also having another dimension, namely to contribute, through recommendations based on his observations and findings, to the respect and promotion of human rights in Iraq. During the reporting period, the Special Rapporteur therefore continued to suggest several options for initiating a constructive dialogue on human rights with the Government, including through visits to Iraq. The Special Rapporteur has consistently emphasized that visiting Iraq is of paramount importance, in order for the Special Rapporteur to examine the situation of human rights in Iraq *in situ* and be in a better position to draw appropriate conclusions. The Special Rapporteur has also previously suggested that a dialogue on human rights with the Government could also be initiated through a series of meetings in Geneva with senior Iraqi officials.

9. By July 2001, as no concrete indications had been forthcoming from the Government of Iraq, the Special Rapporteur decided to propose yet another initiative to the Government. In a letter to the Government dated 30 July 2001 the Special Rapporteur wrote "I would like to propose that I, as a first step in a closer framework of collaboration, conduct an exploratory mission to Iraq at a time mutually to be agreed upon. During the mission, which would be of a duration of a few days, I would primarily meet and make personal first contacts with relevant Iraqi officials. I believe that such a mission would play an important confidence-building role. Prior to departure, the mission schedule would be prepared in cooperation with relevant Iraqi officials in Geneva and would be conducted in a completely transparent manner." While the Iraqi diplomatic representatives in Geneva informally acknowledged receipt of the letter, the Special Rapporteur did not receive a specific reply to this request for an exploratory mission.

10. However, in mid-January 2002, the Special Rapporteur was contacted by phone by the Government, and was told that the Government would accept a short visit in early February. Subsequently, on 21 January, the Permanent Mission of Iraq to the United Nations at Geneva wrote to the Special Rapporteur that the Government "accept[s] the visit" of the Special Rapporteur "during the period from 8 to 11 February".

11. The Special Rapporteur travelled to Geneva at the end of January, inter alia, to meet with Iraqi diplomatic representatives to discuss further the modalities of the mission. During a series of meetings on 24, 27 and 28 January with Iraqi diplomatic officials it was eventually agreed that the mission would take place from 11 to 15 February.

12. During the meeting on 27 January, the Special Rapporteur was asked how many support staff he would wish to accompany him, and the Special Rapporteur requested that two professional staff from the Office of the High Commissioner for Human Rights (OHCHR), as well as two United Nations interpreters accompany him. In response, the Iraqi officials indicated that they preferred that the Rapporteur be accompanied only by the staff member of OHCHR who normally assists the Rapporteur, and one United Nations interpreter.

13. Following the meetings on 24, 27 and 28 January, on 30 January the Special Rapporteur wrote to the Permanent Representative of Iraq to the United Nations Office at Geneva that during his forthcoming mission he would hope to meet, inter alia, officials from the following institutions:

Ministry of Foreign Affairs

- Including officials responsible for the issue of missing persons (missing Iraqis and missing Kuwaiti prisoners of war, etc.);

- Specific discussions with relevant officials on outstanding issues (outstanding responses to letters that have been addressed to the Government regarding allegations of human rights violations);

- Discussions with relevant officials on future steps in a constructive dialogue on human rights, including future missions.

Ministry of Justice

Ministry of Health

Ministry of Labour and Social Affairs

Including officials responsible for prisons

Senior police officials

The judiciary

Representatives of the Iraqi Bar Association

The Human Rights Committee of the National Council

Baath Party officials.

14. The Special Rapporteur further indicated in the letter that he would very much like to visit religious sites in Najaf and to have discussions with religious leaders. He also pointed out that, in particular, he wished to visit the Abu Ghraib prison in Baghdad. He also indicated that he was planning to meet with representatives of the various United Nations agencies and programmes in Iraq, as well as representatives of the International Committee of the Red Cross.

15. Both prior to and during his mission, the Special Rapporteur clearly indicated to Iraqi officials that, in the circumstances, he saw this initial mission as an exploratory one, the main purpose of which would be to establish initial contacts and set the stage for future cooperation. It should also be noted, that owing to the short notice prior to the mission, as well as the short duration of the visit, the Special Rapporteur decided that only a limited number of pre-selected human rights issues could be raised during the mission, and that the main purpose would be to establish a promising initial contact with the Government and to agree on procedures and mechanisms for future cooperation.

Meetings and visits

16. While the mission was conducted from 11 to 15 February, it should be noted that because of United Nations regulations, travel to Iraq could only be undertaken by car from Amman to Baghdad - a 10-hour drive. The programme of meetings and visits thus started upon arrival on 11 February late in the evening, and ended upon departure at noon on 15 February. Throughout the visit, the Special Rapporteur was assisted by Mr. Matthias Behnke, an OHCHR human rights officer, and Mr. Mourad Khallaf, a United Nations interpreter. The Special Rapporteur wishes to express his appreciation for their support and hard work, which permitted a very broad range of issues to be covered during a very brief visit. As agreed during the meetings in Geneva, the final programme was prepared by the Government and a copy of the programme was given to the delegation of the Special Rapporteur upon arrival, with an assurance that the Special Rapporteur could make any changes he wished or could visit any place he wished.

17. During the visit, the Special Rapporteur met with the following government ministers: the Minister for Foreign Affairs, Dr. Naji Sabri, the Minister of Justice, Mr. Monthor Al-Shawi, the Minister of the Interior, Mr. Mahmood Al-Ahmed, and the Minister of Labour and Social Affairs, Saadi T. Abbass. The Special Rapporteur also met with officials from the Ministry for Foreign Affairs, the police, the prison authorities, the Ministry of Health, the president and judges of a criminal court in Baghdad, two prominent Kurdish persons from Baghdad, and the chairman and members of the Iraqi Bar Association.

18. The Special Rapporteur also met with high religious dignitaries from the Roman Catholic, Armenian, Assyrian and Syrian Christian Churches, as well as two Shia Muslim religious dignitaries in Kerbala. The Special Rapporteur also met with senior representatives of the United Nations Country Team, including Mr. Tun Myat, the

United Nations Humanitarian Coordinator in Iraq, who provided useful background information that enabled the Special Rapporteur to understand and evaluate better the human rights and humanitarian situation in Iraq.

19. Furthermore, during his mission the Rapporteur visited a women's prison on the outskirts of Baghdad, the central prison in Abu Ghraib, a hospital for children, a school and a food distribution outlet, as well as religious sites in Khadamia and the two holy shrines in Kerbala.

20. The Special Rapporteur would like to note with appreciation that practically all the meetings he asked for during the meetings in Geneva as well as in his letter of 30 January were accepted and arranged by the Government. Owing to time limitations it was not possible to meet with the International Committee of the Red Cross, and for the same reason the visit to Najaf had to be postponed as it appeared that a requested rearrangement of appointments was virtually impossible, even though such a visit was foreseen in the programme. Needless to say, the short duration of the mission did not allow for other visits and meetings, such as visits to the northern governorates and the marshlands in the south of Iraq, which are essential in order to obtain a clearer impression of the human rights situation in Iraq.

21. During almost the entire mission and at practically all meetings, the Special Rapporteur and his team were accompanied by officials from the Ministry of Foreign Affairs. Only during the meetings with Christian religious dignitaries, with the United Nations Country Team and with a guardian of one of the shrines in Kerbala was the Special Rapporteur and his staff unaccompanied by Iraqi officials.

22. In general, during the meetings with government ministers and officials, the Special Rapporteur expressed his appreciation to the Government for the opportunity to visit Iraq, and clearly outlined that it was his hope to start a constructive dialogue on human rights.

Meeting with the Minister for Foreign Affairs

23. The Minister for Foreign Affairs welcomed the Special Rapporteur and indicated that the Government of Iraq was willing to cooperate with the Special Rapporteur. The Minister emphasized that he expected the Special Rapporteur not to apply double standards and to carry out his mandate in a fair manner. The Minister also stated that the sanctions imposed by the United Nations Security Council on Iraq were having a detrimental effect on the Iraqi population and, furthermore, were preventing the Government from taking sufficient initiatives to address human rights issues. Should the sanctions be removed, the Minister asserted, it would be likely that more could be done for the promotion and protection of human rights.

24. The Special Rapporteur thanked the Minister for the invitation, expressed the hope that the visit would be the beginning of a fruitful collaboration and requested the assistance of the Minister in this regard. The Special Rapporteur further stressed the importance of continued cooperation on the part of the Government, and underlined that the present visit should be the first of several future ones.

25. The Minister assured the Special Rapporteur that the Government was willing to cooperate and the Ministry of Foreign Affairs would assist in this regard.

Meeting with the Minister of Justice

26. On 12 February 2002 the Special Rapporteur had a long meeting with the Minister of Justice at which several issues were discussed, mostly in response to the Special Rapporteur's queries and questions. The same methodology was followed at all meetings with ministers and government officials.

27. With regard to the application of the death penalty, the Minister of Justice explained that capital punishment was indeed applied in Iraq, and that the application of the death sentence was currently also influenced by the pressures on society due to the embargo against Iraq. The Minister explained that the Penal Code of Iraq exclusively regulated the application of the death penalty, and presented the Special Rapporteur with a consolidated version of the Iraqi Penal Code including amendments. The Special Rapporteur asked whether the death penalty could be imposed under other laws, or presidential or similar decrees. The Minister explained that there were no other general laws which imposed the death sentence; however, certain legislation might be promulgated increasing the sentence for a specific crime, listed in the Penal Code, to capital punishment. As an example, the Minister mentioned that recently the maximum sentence for organized crime had been increased to capital punishment.

28. The Special Rapporteur also inquired about the punishment for so-called political crimes. The Minister explained that article 156 of the Penal Code imposed the death penalty as the maximum penalty for crimes endangering the internal and external security of the State. The Minister further explained that all death sentences had to be signed by the Minister of Justice, as well as by the President; that the only method of carrying out the death sentence was by hanging, and that the only place death sentences were carried out was in the execution chamber of the Abu Ghraib prison, close to Baghdad.

29. When asked, the Minister explained that a presidential decree could only increase the sentence for crimes already in the Penal Code, but could not stipulate punishments for offences not mentioned in the Penal Code, and that that could only be done if specific circumstances justified such a step. In this regard, the Special Rapporteur requested that he be provided with a list of all death sentences pronounced during the last two years (2000 and 2001), giving at least the names of the persons executed, the dates of execution and the crimes that the persons were found guilty of.

30. On a more specific note, and as a follow-up to a number of allegations brought to the attention of the Special Rapporteur (see the previous reports of the Special Rapporteur to the General Assembly and to the Commission on Human Rights), he inquired whether prostitution was a crime punishable by death. The Minister explained that prostitution was indeed a crime in Iraq - since 1954 - but that it did not carry the death penalty and would normally entail a sentence of from two to three years' imprisonment. However, the crime of organizing prostitution and exploiting women for prostitution could be punished by death. The Minister further clarified that recently there had been no sentencing to death for this crime in the normal criminal courts.

31. The Special Rapporteur also inquired about the status and role of the Special Courts. The Minister explained that such courts, which are composed of regular judges, did in fact exist, and were set up under specific circumstances for a certain time when the gravity and the general frequency of a specific crime justified it. The Minister explained that some cases were referred to the Special Courts by the President. As an example, the Minister mentioned that, in recent months, crimes relating to the trafficking and distribution of narcotic drugs had been referred to the Special Courts. The Minister further explained that all judgements of the Special Courts were subject to the right of appeal. The Special Rapporteur requested that he be provided with an explanatory note on the status and functioning of the Special Courts, in order for him to have a clearer understanding of the justification for having such courts. The Special Rapporteur also noted that, given the explanations received, it would appear that there was no specific need for such courts, as the regular courts would appear to have the capacity to deal with all cases.

32. The Special Rapporteur also asked about the procedure for the publication of laws and decrees, as previous information received claimed that some decrees were not published in the Official Gazette. In response, the Minister explained that "99.9 per cent" of all new laws and decrees were published in the Official Gazette, and only very specific laws relating to the armed forces were not published.

33. With regard to recent initiatives to reform the penal system, the Minister explained that, upon the request of the President, a study was currently being carried out by the Ministry of Justice in collaboration with the Ministry of Labour and Social Affairs and the Ministry for Religious Affairs which would recommend the reduction of sentences for crimes which currently carry the death penalty. The Minister pointed out that the study and relevant report were almost completed and one of the crimes recommended for reduced sentencing was the offence of organization of prostitution and trafficking of women. The study would recommend that this crime should not be punishable by death.

34. The Special Rapporteur welcomed this initiative and requested that he be provided with a copy of the study and recommendations once available. In this regard, the Special Rapporteur also asked for a list of all crimes currently carrying the death penalty, as this would allow him to compare the present situation with the changes proposed in the study.

35. During the meeting, other issues, such as the independence of the judiciary, fair trial and further law reform, were briefly touched upon. The Special Rapporteur expressed his appreciation for the meeting, which he saw as the beginning of a fruitful dialogue. He expressed the hope that, further to the discussion of issues raised during the meeting, he would be provided with a copy of the study recommending the reduction of sentences for certain crimes which was currently being finalized by the Ministry, a note explaining the status and functioning of the Special Courts, the list of crimes currently punishable by death and a list of all death sentences carried out during 2000 and 2001. The Special Rapporteur also expressed the hope that additional issues would be addressed in the future.

Meeting with the Minister of the Interior

36. The Minister, who was accompanied by senior officials from the Ministry, including senior police officials, initially outlined his areas of responsibility, which include the Traffic

Department, civil defence, the Department of Nationality and Civil Cases, and the police (including police detention centres). The Minister pointed out that his tasks were rendered difficult by the embargo against Iraq, and that the lifting of sanctions would considerably improve the situation. In this regard, the Minister mentioned, as an example, that the Department of Nationality could not proceed with establishing a unified system of identity cards - as in most other countries - as this would require information technology equipment, which, although ordered, had been placed on hold by the Sanctions Committee established under Security Council resolution 661, as computers were considered to be of dual use and were thus on the list of items which could not be imported.

37. The Minister acknowledged that, among his various areas of responsibility, most often the police were accused of committing human rights violations. The police force currently numbered a total of 58,000 staff throughout the country. The Minister pointed out that, since assuming his current position nine months previously, he had taken several steps to ensure that citizens had access to a complaints mechanism. The Minister stressed that the police could only act in accordance with the law, and that he was personally very keen to ensure that there were fair procedures for complaining and often personally took action following such complaints. He also admitted that a number of officers had been convicted for violations of citizens' rights and were currently serving sentences. It was further explained that the Minister was often called upon to answer questions in the National Assembly regarding action taken by the police force.

38. The Special Rapporteur welcomed these initiatives by the Minister and explained that several individuals and organizations submitted allegations of human rights violations to the Rapporteur and that some of those allegations related to violations committed by the police. In that regard, the Special Rapporteur called on the Minister to cooperate by fully investigating allegations of violations transmitted by the Special Rapporteur and, in turn, supplying sufficiently detailed answers. The Minister promised to examine any material submitted to him by the Special Rapporteur.

39. By way of example, the Special Rapporteur mentioned to the Minister that many allegations of violations of human rights had recently highlighted the issue of so-called "arabization", and added that the allegations received had made specific reference to a recent decree which would allow non-Arabs to change their nationality/ethnicity to Arab. The Minister admitted that there was, in fact, such a decree and said that its main purpose was to assist persons who had previously registered under another nationality/ethnicity; the decree now gave them the opportunity to correct this. It was further explained that some persons had registered under another ethnicity to avoid military service, or in the belief that they would obtain other privileges, but that it was now their wish to revert to their original Arab ethnicity. The Minister noted that the decree did not imply any forced change of ethnicity, but was based on a voluntary action by individuals. The Special Rapporteur pointed out that even if this was in fact the case, the decree could be construed to be discriminatory, as it would appear to give preference to the Arab ethnicity. The Minister expressed the intention of taking into consideration the advice provided by the Special Rapporteur. With regard to the same issue, the Special Rapporteur pointed out that several allegations received recently claimed that non-Arabs were being forcibly expelled from their land in the north, especially in the Kirkuk area. The Minister pointed out that what was currently going on in the north was related to initiatives aimed at maximizing the agricultural output of one of the most fertile regions of Iraq. The Minister explained that a

specific policy was currently in place which would require landowners to cultivate their land. If this was not done, certain restrictions could be imposed. While it was acknowledged that this issue was too complex to be covered in depth during the meeting, upon the request of the Special Rapporteur the Minister undertook to work with the Ministry of Foreign Affairs to prepare an explanatory note on the issue. This would then allow the Special Rapporteur to study the question in depth and to formulate additional questions, recommendations, etc.

40. With regard to other allegations of human rights violations he had received, the Special Rapporteur inquired whether military deserters had their ears cut off as a punishment. The Minister explained that he had heard that that had happened previously, but that the practice had now definitively ceased.

41. The Special Rapporteur raised another issue referred to in allegations recently received: the question of government pressure on family members of persons abroad wanted by the Government. The Special Rapporteur explained that he had recently received information that the family members of a journalist, who was currently outside Iraq, had been put under pressure by the Government. Allegedly this journalist had expressed criticism of the Government on an Arab satellite television newscast. It was alleged that, in response and in order to force the journalist to refrain from making similar statements in the future, some family members of this individual had been forced by the Government to issue a statement on Iraqi satellite television criticising the journalist. The Minister explained that he was not aware of such an incident, and pointed out that the President had explicitly prohibited the authorities contacting family members of criminals or exerting any kind of pressure. The Minister undertook to investigate the matter if the Special Rapporteur would provide a videotape of the alleged statement on Iraqi satellite television.

Meeting with the Minister of Labour and Social Affairs

42. The Minister initially referred to the detrimental effect of the embargo on the capacity of his Ministry to carry out the duties it was assigned. Generally, the Minister pointed out, because of the embargo the Ministry had fewer resources to meet the need for social services. The situation of older persons, women and orphans had deteriorated during the past few years owing to the embargo. This situation, according to the Minister, had also led to an increase in crime, especially juvenile delinquency.

43. The Minister further explained that the lack of resources available for prisons had led to far below satisfactory conditions. The Minister acknowledged that the conditions in the prisons were far from satisfactory, because of two main factors. First, the lack of resources due to the embargo severely limited the capacity to address urgent needs and, second, while the crime rate had not increased significantly during the previous 20 years, the population has increased from around 10 million in the 1970s to 27 million today. At the same time, the capacity of prisons in Iraq had not increased to match the population growth, which now resulted in overcrowded prisons; the Minister explained that the last new prison in Iraq was built in 1981.

44. The Minister acknowledged that there was an urgent need to improve the conditions in the prisons and he was pleased to inform the Special Rapporteur that the Ministry had recently been allocated funds to improve the conditions of severe overcrowding by initiating the

construction of additional buildings and facilities at the central prison of Abu Ghraib. The Government was also currently reviewing possible options to reduce the pressure on the prison system. These possible options included the possibility of imposing a fine or the performance of community service instead of a prison sentence for certain crimes. Proposals for alternative bail and earlier release on parole were also being considered. A number of amnesty decisions by the President had also been implemented recently, which had made the earlier release of prisoners possible. In this context, the Special Rapporteur suggested that in order to ensure that proper procedures were followed in the prisons, it might be wise to consider a system of independent visitors tasked with conducting unannounced visits to prisons to inspect conditions and ensure respect for the rights of the inmates. The Special Rapporteur inquired what mechanisms were in place to ensure that prison staff did not mistreat prisoners or commit other offences, and the Minister explained that the director of a prison, as well as the Minister himself, could initiate investigations, and that recently 20 prison staff had been punished. The Minister also explained that several alternative mechanisms were in place, including accountability mechanisms vis-à-vis the Presidency, as well as reporting to the National Assembly. The Minister also explained that prisons were seen as centres for re-education and rehabilitation and not as centres for punishment. In this regard, the Government had taken several initiatives to provide educational and vocational training programmes for inmates.

45. Responding to a question from the Special Rapporteur, the Minister confirmed that all prisons and other detention centres in Iraq, apart from the detention centres under police authority, were under the supervision of the Ministry. The Minister also confirmed that all executions were carried out by hanging and that all executions were exclusively carried out in Abu Ghraib prison. The Special Rapporteur repeated his request for a list of all executions carried out during 2000 and 2001, and the Minister acknowledged that such a list existed and that he would look into the request. With regard to the death penalty, the Special Rapporteur pointed out that article 6 of the International Covenant on Civil and Political Rights enjoined State Parties to limit the application of the death penalty to the most serious crimes, and that the Human Rights Committee in one of its General Comments had pointed out that although article 6 did not prohibit the death sentence it certainly pointed in the direction of eventual abolition.

Visit to prisons

46. As a follow-up to the meeting with the Minister of Labour and Social Affairs, and as previously requested, the Special Rapporteur also visited two prisons in Baghdad during the morning of 14 February 2002. Initially he saw a prison for women, and had the opportunity to exchange comments briefly with a few female prisoners while accompanied by officials from the Ministry of Foreign Affairs and by prison officials. In general, the Special Rapporteur had a positive impression of the conditions in the women's prison. From what he saw, it appeared that conditions were satisfactory and that the authorities were undertaking serious efforts to rehabilitate the female prisoners through educational and vocational training programmes. It also appeared from talking to a few prisoners in this as well as the Abu Ghraib prison that certain prerequisites for a fair trial, such as the right to counsel and review of conviction and sentence, were, in those cases, respected.

47. The very compressed schedule only permitted a brief visit to the Abu Ghraib prison. The Special Rapporteur even had to cancel another scheduled visit to a prison for minors and

adolescents in order to have sufficient time to visit Abu Ghraib. During this visit, the Special Rapporteur saw three main sections of the prison: the so-called, "light sentence" section, which included convicts serving less than 10 years' imprisonment; the "Foreigners and Arabs" section; and death row and the execution chamber. During the visit, the Special Rapporteur was accompanied at all times by officials from the Ministry of Foreign Affairs, the Director of the prison and other prison staff.

48. The Director explained that the prison currently had a population of 9,000 inmates, of which 2,800 were in the "light sentence" section, and approximately 660 in the foreigners' section. The Special Rapporteur did not receive any additional data. The Director further confirmed that the International Committee of the Red Cross (ICRC) had access to the entire prison and conducted visits every six months. It should be noted, however, that the ICRC in Geneva confirmed that ICRC has access only to the "Foreigners and Arabs" section, and only to those prisoners who are not visited by diplomatic representatives of their country.

49. In the "light sentence" section the Special Rapporteur was shown the cells of inmates, the sanitary facilities and the prison clinic. As mentioned and admitted by the Minister, the section was severely overcrowded and it appeared that not many options for reformation and educational or recreational activities were present. In general, the impression of the Special Rapporteur was that conditions are almost appalling.

50. The conditions in the "Foreigners and Arabs" section were considerably better. It appeared that each prisoner had adequate cell space and that certain educational and vocational training activities were taking place.

51. The "death row" section consisted of very small and dark cells with two prisoners in each cell, and generally the conditions seemed, to say the least, very poor. The execution chamber was adjacent to the death row section and contained two separate gallows.

52. In general it should be pointed out that, while the Special Rapporteur appreciated the opportunity to visit the prisons, time restrictions made it impossible for him to conduct an in-depth visit. Furthermore, in the circumstances, the Special Rapporteur did not see fit to request to have the opportunity to interview prisoners in private, without the presence of Iraqi officials. The Special Rapporteur hopes that during future missions more thorough visits would be undertaken. However, the Special Rapporteur wishes to note with appreciation the cooperation offered by the Minister of Labour and Social Affairs and his staff. He hopes that the initiatives to improve the conditions in the prison outlined by the Minister will be undertaken without delay, especially, the urgent construction of additional prison buildings in the Abu Ghraib prison to address the serious problem of overcrowding.

Missing persons

(a) Kuwaiti prisoners of war and persons unaccounted for since the time of the Iraqi occupation of Kuwait

53. The Special Rapporteur had two meetings at the Ministry for Foreign Affairs to discuss the situation of missing persons. With regard to missing Kuwaiti prisoners of war and persons

unaccounted for since the time of the Iraqi occupation of Kuwait, the Government pointed out that several initiatives had been conducted to localize these persons, including public broadcasts and the issuing of posters and announcements for public display throughout the country. The Government was still unwilling to cooperate with the Tripartite Commission owing to the membership of the United States and the United Kingdom, to which the Government objects.

54. Prior to his mission to Iraq, the Special Rapporteur had also met in Geneva with representatives of the Government of Kuwait to discuss the issue. The Special Rapporteur received a number of documents providing recent indications of the presence of some Kuwaitis allegedly still in Iraq. The Government of Kuwait reiterated that it continued to be committed to the Tripartite Commission.

(b) Missing Iraqis

55. The Government stated that according to its records a total of 1,137 Iraqis were still missing in Kuwait. During his meetings in Baghdad with the Ministry of Foreign Affairs, the Special Rapporteur also raised the issue of persons missing since 1980 (see previous reports of the Special Rapporteur), and renewed his appeal to the Government to invest efforts to find a solution to this issue. The Special Rapporteur said that he would forward a list of approximately 2,000 Iraqis which he had received during his mission to Iran in January 2002, and would urge the Government to investigate the cases mentioned.

56. Generally, with regard to the issue of missing Iraqis and missing Kuwaiti prisoners of war, the Rapporteur noted that although the position of the Government of Iraq with regard to the Tripartite Commission remains the same and that the Government of Kuwait insists on the framework of the Tripartite Commission, a number of issues could be the basis for a common ground: (i) both sides declare they want to cooperate and find a speedy solution to this humanitarian problem and (ii) both sides trust the ICRC. The Special Rapporteur expressed his willingness to be of general assistance to overcome difficulties. The Special Rapporteur reiterated his position that the Tripartite Commission is the appropriate forum and urged the Government of Iraq to rejoin its sessions.

57. While the Special Rapporteur deals mainly with current and recent events, he wishes to stress that in the case of missing persons the file cannot be closed until definite information about their fate can be arrived at. The Special Rapporteur notes with regret that no measurable progress has been achieved on this issue and, in this regard, he urges all parties to redouble their efforts to find a solution to the humanitarian and non-political issue of missing persons.

58. The Special Rapporteur regrets that, despite efforts to that effect, the Tripartite Commission has not been able to continue its work and he urges the Government of Iraq to rejoin its sessions. The Special Rapporteur also urges the Government of Iraq to cooperate with the High-level Coordinator, Ambassador Yuli Vorontsov, pursuant to Security Council resolution 1284 (1999) of 17 December 1999.

Religious freedom

59. In the past the Rapporteur has received several allegations regarding oppression of religious freedom in Iraq. In particular, several allegations have claimed that the Shia Muslim community is oppressed by the Government. Allegations have ranged from oppression of all Shia Muslims in general, to targeted oppression of religious leaders and scholars. In this regard the Special Rapporteur requested to visit Shia Muslim religious sites and to hold meetings with Shia Muslim religious dignitaries. As noted above, visits to Kadamia and Kerbala took place during the mission to Iraq, and the Special Rapporteur had the possibility in Kerbala of exchanging, in private, brief remarks with a custodian of one of the shrines in Kerbala, as well as with the Chief Holy Man of the Imam Abbas shrine in Kerbala, Said Mahdi Said Fadhil Al-Ghurabi, in the presence of Iraqi officials.

60. The general impression of the Special Rapporteur was that Shia as well as Sunni Muslims were free to visit the mosques and shrines. Regretfully, time did not permit a very essential visit to Najaf, which would have allowed the Special Rapporteur to assess whether any restrictions with regard to freedom of movement and expression were being put on senior Shia clerics.

61. The Special Rapporteur also met religious leaders of the Roman Catholic, Armenian, Assyrian and Syrian Christian Churches, who explained that Christians were generally free to practise their religion in Iraq without impediment.

62. Two issues of concern were discussed. The first issue related to the fact that children of Christian parents were automatically registered as Muslims if the parents decided to convert to Islam. This issue had initially been resolved following consultations with the Presidency. Although the compromise had been cancelled by the Supreme Court, discussions with the Government were under way and the Christian leaders affirmed their conviction that a compromise would be found. The second issue of concern was the existence of a decree apparently obliging Christian parents to give Arabic names to their children, whereas they wanted to give them Christian names. A dialogue with the Government was taking place on this issue also.

The humanitarian situation

63. As noted in his previous reports, the Special Rapporteur is of the opinion that, in order to carry out his mandate, he needs to be fully appraised of the general situation in Iraq, as well as being aware and understanding all factors which might have an influence on the situation of human rights in the country, and factors which determine the capacity of the Government to implement its freely undertaken obligations under international human rights instruments.

64. For this reason, during his mission, the Special Rapporteur sought to gather information about the humanitarian situation in the country. As noted above, the ministers with whom he met pointed out to the Special Rapporteur that the embargo was having a detrimental effect on the population of Iraq in general, and that the capacity of the Government to protect the human rights of the population was severely hampered by the embargo. Again and again, it was pointed out that the human rights situation in the country would improve once the sanctions were lifted.

65. In addition to the meetings and visits requested by the Special Rapporteur, the Government also included in the programme visits to a children's hospital, a school in Baghdad and an unscheduled visit to a food distribution outlet. A meeting with senior officials from the Ministry of Health was also organized, as requested by the Special Rapporteur. It was repeatedly pointed out that, owing to the embargo, a number of important medical drugs were unavailable. The Ministry of Health provided the Special Rapporteur with a list of orders for medical drugs and medical equipment currently blocked or put on hold by the 661 Sanctions Committee of the Security Council. During the visit to the children's hospital, the medical doctor in charge explained to the Special Rapporteur that the embargo had a detrimental effect on the health situation in the country, that the percentage of cancer patients had increased substantially since the 1991 war and that certain of the cancer cases could have been cured had certain medicines and equipment been available. The doctor also explained that many instances of chest infection resulted in death because of malnutrition or lack of medicine.

66. During a meeting with the United Nations Country Team, it was pointed out that the "oil-for food" programme provided the entire population with sufficient food. The Government of Iraq was complimented for its efforts in this regard. However, general poverty still exists in the country, and many persons suffer from malnourishment as they are forced to sell their food rations to purchase medicines, clothing, etc. Water, sanitation and electricity were also highlighted as serious problems. With regard to applications placed on hold by the 661 Committee, the total amount now exceeds US$ 5 billion, which prompts the Special Rapporteur to reiterate his concern about this situation.

Other meetings

67. In addition to the meetings referred to above, the Special Rapporteur met with two members of the National Assembly, including the chair of the Human Rights Sub-Committee. During the meeting a number of human rights issues were discussed generally. In particular, the Special Rapporteur inquired about the situation of women in Iraqi public life and suggested that affirmative action initiatives could be undertaken to promote equality between men and women.

68. The Special Rapporteur also met with Dr. Huda Amash, a senior member of the ruling Baath Party and a member of the Regional Command. The meeting was positive and both the humanitarian situation and human rights issues were touched upon. The Special Rapporteur reiterated his hope that the collaboration initiated with the Government would continue.

Closer cooperation - continuation of the dialogue

69. As noted above, this initial mission to Iraq, whilst permitting the Special Rapporteur to observe in very general terms the situation of human rights in the country, was mainly targeted towards initiating a dialogue with the Government and exploring options for closer cooperation. In this regard the Special Rapporteur had a series of meetings with officials of the recently established Human Rights Department of the Ministry of Foreign Affairs. At a closing meeting on 14 February 2002 the Special Rapporteur stated that he was pleased with the initial indications from the Government with regard to taking positive action and promising closer collaboration, as well as the indication from the Minister for Foreign Affairs that Iraq was ready to cooperate with the Special Rapporteur. The Special Rapporteur urged the Government to

comply with all relevant Security Council resolutions and thus allow the weapons inspectors to return to Iraq. With regard to correspondence regarding allegations of human rights violations, the Special Rapporteur stressed the importance of his receiving specific and detailed replies to letters he transmitted to the Government. It was agreed that the Human Rights Department would be the focal point for letters transmitted by the Special Rapporteur through the Permanent Mission of Iraq in Geneva. In consultation with government agencies and ministries, the Human Rights Department would then prepare detailed and specific replies to the Special Rapporteur.

70. Furthermore, as discussed during the previous meetings with government ministers and others, the Special Rapporteur pointed out that he would be looking forward to receiving the following information:

A list of all crimes that currently carry the death penalty;

A copy of the study currently being finalized by the Ministry of Justice and others which proposes the reduction of the sentence for certain crimes from the death penalty to a lesser sentence;

A list of all executions carried out in Iraq during the past two years (2000 and 2001);

Additional written information regarding the planned reforms in the prison sector, as well as information as to the progress of implementation of these reforms;

An explanatory note clarifying the decree permitting the changing of nationality/ethnicity to Arab;

An explanatory note regarding the current land reform cultivation plan/scheme currently being carried out in the north (as briefly described by the Minister of the Interior);

An explanatory note regarding the status and authority of the Special Courts;

An explanatory note clarifying the decree regarding the naming of children.

71. In particular, the Special Rapporteur underlined the necessity of receiving the information requested with regard to the death penalty so that the issue of the right to life set out in article 6 of the International Covenant on Civil and Political Rights could be properly dealt with. In addition, the Special Rapporteur urged the Government to work closely with the human rights treaty bodies, and urged Iraq to ratify and implement the Convention against Torture. With regard to the situation of women, the Special Rapporteur reiterated a point made several times during his visit by urging the Government to consider affirmative action initiatives on behalf of women in areas where women are currently at a significant disadvantage compared to men. In this regard the Special Rapporteur is currently studying material on the situation of women submitted to him by the Government following his visit to Iraq.

Other human rights issues

72. Unfortunately, the tight programme did not allow for extensive discussion on a wide range of other human rights issues, including freedom of expression as protected by article 19 of the Covenant on Civil and Political Rights, to which Iraq is a party. The Special Rapporteur plans to raise this and other matters with the Government in the future.

III. MISSION TO IRAN AND OTHER SOURCES SUBMITTING ALLEGATIONS OF VIOLATIONS OF HUMAN RIGHTS

73. As noted in the introduction, the Special Rapporteur decided, in conformity with his mandate, to undertake a mission to Iran in January 2002 with the aim of collecting recent information regarding alleged human rights violations committed by the Government of Iraq. The Special Rapporteur requested the permission of the Government of Iran, which eventually agreed to the mission. In this regard the Special Rapporteur wishes to express his appreciation to the Government of Iran.

74. An OHCHR human rights officer assigned to assist the Special Rapporteur was dispatched on a mission to Iran from 11 January to 19 January. The human rights officer visited refugee camps in the south of Iran, in the Ahvaz and Dezful area, which are under the authority and run by the Government of Iran with the assistance of the Office of the United Nations High Commissioner for Refugees. In these camps the human rights officer interviewed recently arrived Iraqi nationals about the human rights situation in Iraq. In addition, the human rights officer also interviewed a number of individuals in Qom and Tehran. It should be noted that all interviews were conducted in private with only a United Nations interpreter present.

75. The Special Rapporteur himself visited Tehran from 16 January to 19 January. Upon arrival, he was briefed by the OHCHR human rights officer and also conducted a series of interviews and had a series of meetings.

76. The visit was in part facilitated by logistical assistance from the Iraqi organization The Supreme Council for the Islamic Revolution in Iraq (SCIRI) and, apart from several other meetings during his mission, the Special Rapporteur also met with its leader Ayatollah Al-Haqim. It should be noted that the purpose of this, as well as all other meetings, was exclusively limited to collecting information about alleged human rights violations in Iraq. The Special Rapporteur wishes to express his appreciation to SCIRI for providing logistical support for his mission.

77. During the reporting period the Special Rapporteur also received from various sources a number of written allegations of human rights violations. In particular, a great number of individuals and organizations contacted the Special Rapporteur upon learning of his impending visit to Iraq and submitted documents on the human rights situation in Iraq.

78. The Special Rapporteur is currently in the process of sifting through the information gathered and plans to submit a number of sufficiently detailed allegations to the Department of Human Rights in the Ministry of Foreign Affairs of Iraq for comment in the context of the mechanism and procedures agreed upon during the mission to Iraq which are described above.

For this reason, this section of the report will only very briefly summarize the information received, and the Special Rapporteur plans to revert to these issues in more detail in future reports. The Special Rapporteur also wishes to note that he has taken this information into serious consideration, and hopes that the Government will reply in detail to allegations submitted in the future, as the sheer volume of information and the seriousness of allegations submitted to the Special Rapporteur warrant serious concern, and thus appropriate handling by all.

79. The Special Rapporteur continued to receive from various sources allegations regarding religious persecution in Iraq. In particular, and as previously stated, several sources indicated that some senior Shia Muslim religious leaders, in particular Ayatollah Ali Sistani in Najaf, are restricted in their movement and are confined to house arrest. Other sources even indicated that the Shia Muslim population in general is prevented from practising. This latter allegation, however, seemed not to be confirmed during the visit to Kerbala and Kadamia. As mentioned in his report to the General Assembly (A/56/340), the Special Rapporteur also sought to obtain more information regarding the death of Ayatollah Hussein Bahr Al-Aloom. During his visit to Kerbala, the Special Rapporteur was informed that in connection with the burial ceremony the body of the Ayatollah was brought to Kerbala from Najaf and then returned to Najaf. The Special Rapporteur could not, in the circumstances, and particularly owing to the postponement of the visit to Najaf for lack of time, obtain conclusive information regarding the circumstances of the death of the Ayatollah.

80. Several sources continued to submit allegations of extrajudicial killings, torture, cruel, degrading and inhuman treatment and punishment. In particular the Special Rapporteur received information from several individuals claiming to have directly witnessed human rights violations of this kind. The Special Rapporteur received information about secret detention sites, where allegedly torture, cruel, degrading and inhuman treatment and punishment is widespread. The Special Rapporteur intends to investigate further the more substantiated allegations in the context of the new dialogue established with the Government and therefore limits his comments on this subject in the present report.

81. As mentioned above, the policy of arabization allegedly being carried out by the Government has been brought to the attention of the Special Rapporteur by several organizations and individuals. In particular, several Kurdish organizations have submitted allegations in this regard. As noted above, the Special Rapporteur presented these allegations to the Government of Iraq and is looking forward to receiving explanatory notes from the Government. He hopes to provide more information on the subject in his next report.

82. As also noted above, the Special Rapporteur has continued to clarify allegations regarding the situation of women. In particular, the Special Rapporteur sought more information concerning the alleged execution of female prostitutes. It appears likely that recently, either during 2000 or 2001, a small number of women were sentenced to death and executed for organizing the trafficking of women or exploiting women for prostitution, whilst a larger number of women appear to have been sentenced to two to three years' imprisonment for prostitution. However, this chapter is not closed, and the Special Rapporteur intends to follow up any other clarifications or allegations. The Special Rapporteur also received information that prison guards in the Abu Ghraib prison allegedly sexually abuse female relatives of inmates in exchange for allowing visits to the inmates or for other favours.

83. The Special Rapporteur also received information regarding the formation of the so-called Al-Quds army. From these allegations, it would appear that a people's militia is being created for more than one reason. Some allegations received claimed that a large segment of the male population is being forcibly recruited into this militia. Furthermore, the Special Rapporteur also received information alleging serious human rights violations by other paramilitary, intelligence and security forces.

84. The Special Rapporteur wishes to reiterate that he considers these and other allegations of human rights violations received and collected as requiring serious investigation. The Special Rapporteur hopes to reach conclusions regarding these and other allegations in the context of the newly established dialogue with the Government and urges the Government to provide prompt and detailed replies to all allegations and queries transmitted to it by the Special Rapporteur.

IV. CONCLUSIONS AND RECOMMENDATIONS

85. The Special Rapporteur is encouraged by progress so far in establishing a constructive dialogue on human rights with the Government of Iraq and wishes to express his appreciation to the Government for accepting the first mission of the Special Rapporteur since his appointment in 1999.

86. The Special Rapporteur wishes to stress that the success of this dialogue will depend on the continued cooperation of the Government, including through the provision of detailed replies to allegations of human rights violations transmitted by the Special Rapporteur, as well as through future visits by the Special Rapporteur to Iraq. The ultimate measure of success will be the successful implementation of recommendations submitted by the Special Rapporteur.

87. The Special Rapporteur wishes to reiterate his recommendations that all humanitarian concerns should be kept under constant review and necessary adjustments should continue to be made to ensure that the humanitarian needs and the long-term adverse effects of the embargo are addressed and the suffering of the people is alleviated.

88. Furthermore, the Special Rapporteur, whilst reiterating recommendations made in his previous reports, wishes to make the following recommendations stemming from the information collected and processed during the reporting period.

89. The Special Rapporteur urges the Government of Iraq to dispatch as soon as possible the documentation and information requested by him during meetings with the Minister of Foreign Affairs and with other ministers and officials, as noted above, and to make immediate arrangements for the continuation of the dialogue.

90. The Special Rapporteur reiterates his recommendation to the Government that a moratorium on executions be implemented immediately.

91. The Special Rapporteur repeats his call on the Government of Iraq to reduce the number of crimes that carry the death penalty, including the crime of trafficking of women and the exploitation of women for prostitution.

92. The Special Rapporteur also urges the Government to improve considerably the conditions on death row and to take urgent measures to improve the general conditions in Abu Ghraib prison, even prior to the construction of new prison buildings, through amnesties and the substitution of other sentences for imprisonment (fines, community service, conditional discharge, bail, etc). The Special Rapporteur also urges the Government to establish a system of independent prison visitors to ensure that the human rights of prisoners are respected.

93. With regard to freedom of religion, the Special Rapporteur urges the Government:

(a) To respect the freedom of religion and freedom of movement of all Shia clerics; and

(b) To examine sympathetically the issues raised by the leaders of the Christian community, as outlined above.

94. The Special Rapporteur urges the Government to facilitate in every respect continuation of the dialogue by ensuring that the focal point at the Ministry of Foreign Affairs has everything that is required in order that it may respond promptly and adequately to requests and recommendations by the Special Rapporteur.

95. The Special Rapporteur urges the Government to abolish the Special Courts and ensure that the rule of law is respected everywhere and at all times in Iraq in accordance with Iraq's freely undertaken obligation under international human rights instruments.

96. The Special Rapporteur urges the Government to ensure that no policies or practices of discrimination against ethnic or religious groups are carried out in Iraq, and to investigate allegations of human rights violations relating to the issue of arabization.